

A  
A  
0  
0  
0  
7  
5  
8  
3  
8  
0  
0

SALE  
UNDER  
PARTITION ACT,  
1868.

LAWRENCE.

8/-



UNIVERSITY  
OF CALIFORNIA  
LOS ANGELES

SCHOOL OF LAW  
LIBRARY

M E S S

Roberts' Pr  
Locock We  
Appeals to

Robson's L  
1 thick vo

Fisher's La  
perty. T

Ball's Popu  
cloth.

Hamel's Cr  
8s. 6d. clo

Drewry's F  
Division

Davis's Co  
County C  
work, or

Davis's Cou  
8vo. 38s.

Davis's Cou  
other Jur

Trower's P  
8vo. 5s.

Mozley and  
20s. cloth

Coote's Common Form Practice in granting Probates and Administrations. 7th Edition. 8vo. 25s. cloth.

Chadwick's Probate Court Manual. Corrected to 1876. Royal 8vo. 12s. cloth.

Folkard's Law of Slander and Libel, founded upon Starkie's Treatise. Fourth Edition. Royal 8vo. 45s. cloth.

Davis's Labour Laws of 1875. With Introduction and Notes. 8vo. 12s. cloth.

Bund's Agricultural Holdings Act, 1875. 12mo. 5s. cloth.

Powell's Principles and Practice of the Law of Evidence. Fourth Edition, by Cutler and Griffin. Post 8vo. 18s. cloth.

Higgins's Digest of Cases on the Law and Practice of Letters Patent for Inventions. 8vo. 21s. cloth.

Adams's Law of Trade-Marks. 8vo. 7s. 6d. cloth.

Crump's Law of Marine Insurance and General Average. Royal 8vo. 21s. cloth.

Collier's Law of Contributory in the Winding-up of Joint Stock Companies. Post 8vo. 9s. cloth.

De Colyar's Law of Guarantees. 8vo. 14s. cloth.

Bund's Law of Salmon Fisheries, and Supplement, 1876. Post 8vo. 16s. cloth.

Underhill's Law of Torts or Wrongs. Post 8vo. 6s. cl.

Sir T. Erskine May's Parliamentary Practice. 7th Edit. 8vo. 40s. cloth.

Grant's Law of Bankers and Banking. Third Edition. Corrected to 1876. By R. A. FISHER. In 8vo. 28s. cloth.

Kelly's Conveyancing Draftsman. Post 8vo. 6s. cloth.

Redman's Law of Arbitrations and Awards. 8vo. 12s. cl.

Hunt's Law of Frauds and Bills of Sale. Post 8vo. 9s. cl.

DON, 1877.

TH,

18s. cl.  
and on

rd Edit.

pon Pro-

10s. 6d.

my 8vo.,

hancery

with the

a separate

10s. cloth.

th Edit.

otcy, and

are Acts.

vol. 8vo.

- Seaborne's Law of Vendors and Purchasers of Real Property, and Supplement to 1874.** Post 8vo. 9s. cloth.
- Fawcett's Law of Landlord and Tenant.** 8vo. 14s. cloth.
- Saunders' Law of Negligence.** 1 vol. Post 8vo. 9s. cloth.
- Rouse's Practical Conveyancer.** 3rd Edit., with Supplement, as to Stamps and other Matters. 2 vols. 8vo. 30s. cloth.
- Hunt's Law of Boundaries, Fences and Foreshores.** 2nd Edition. 12s. cloth.
- Shelford's Law of Joint Stock Companies.** 2nd Edition. By D. PITCAIRN and F. L. LATHAM, Esqrs. 8vo. 21s. cloth.
- Shelford's Law of Railways.** 4th Edition. By W. C. Glen, Esq. 2 Vols. Royal 8vo. 63s. cloth.
- Bainbridge's Law of Mines & Minerals.** 3rd Ed. 8vo. 30s.
- Ingram's Law of Compensation for Lands, Houses, &c.** Second Edition. By J. J. ELMES. Post 8vo. 12s. cloth.
- Dowell's Income Tax Laws.** 8vo. 12s. 6d. cloth.
- Dowell's Stamp Duties and Stamp Laws.** 8vo. 12s. 6d. cl.
- Coombs' Solicitors' Bookkeeping.** 8vo. 10s. 6d. cloth.
- Clark's Digest of House of Lords Cases from 1814 to the present Time.** Royal 8vo. 31s. 6d. cloth.
- Coote's Practice of the Admiralty, the Privy Council, and in the COUNTY COURTS.** Second Edition. 8vo. 16s. cloth.
- Clifford and Stephens's Practice of the Court of Referees.** 2 Vols. Royal 8vo. 70s. cloth.
- CLIFFORD and RICKARDS'** continuation of the same contains the Sessions 1873 to 1876. Royal 8vo. Vol. I., Part I., 31s. 6d. Part II., 15s.
- Scriven's Law of Copyholds, &c.** 5th Ed. By H. Stalman. In 1 vol. Royal 8vo. 30s. cloth.
- Sir R. Phillimore's Commentaries on International Law.** Second Edition. 4 vols. 8vo. 6l. 3s. cloth.
- Trower's Church Building Acts, and New Parishes Acts,** continued to 1874. Post 8vo. 9s. cloth.
- Rouse's Copyhold Enfranchisement Manual.** 3rd Edition. 12mo. 10s. 6d. cloth.
- Latham's Law of Window Lights.** Post 8vo. 10s. cloth.
- Dixon's Law of Partnership.** 1 vol. 8vo. 22s. cloth.
- Barry's Practice of Conveyancing.** 8vo. 18s. cloth.
- Woolrych's Law of Sewers, with the Drainage Acts.** 3rd Edition. 8vo. 12s. cloth.
- Tudor's Leading Cases on Real Property, Conveyancing, and Wills: with Notes.** Second Edition. Royal 8vo. 42s. cloth.
- Tudor's Charitable Trusts.** 2nd Edit. Post 8vo. 18s. cl.
- Phillips's Law of Lunacy.** Royal 12mo. 18s. cloth.
- Powell's Law of Inland Carriers.** 2nd Ed. 8vo. 14s. cloth.
- Shelford's Succession, Probate and Legacy Duties.** 2nd Edition. 12mo. 16s.
- Christie's Crabb's Precedents in Conveyancing, with Common and Commercial Forms.** Fifth Edition, by Shelford. Two thick volumes. Royal 8vo. 3l. cloth.
- Fry on the Specific Performance of Contracts, including those of Public Companies.** 8vo. 16s. cloth.
- Wigram's Extrinsic Evidence in Aid of the Interpretation of Wills.** Fourth Edition. 8vo. 11s. cloth.
- Grant's Law of Corporations in General, as well Aggregate as Sole.** Royal 8vo. 26s. boards.



*W. F. Robinson Esq 20*  
*with Mr's Robinson*  
THE

# COMPULSORY SALE

OF

## REAL ESTATE

UNDER THE POWERS OF

# THE PARTITION ACT, 1868,

AS AMENDED BY

## THE PARTITION ACT, 1876.

BY

PHILIP HENRY LAWRENCE,

OF LINCOLN'S INN, ESQ., BARRISTER AT LAW.

LONDON:

BUTTERWORTHS, 7, FLEET STREET,

*Sole Publishers to the Queen's most excellent Majesty.*

MEREDITH, RAY & LITTLER, MANCHESTER.

T. & T. CLARK AND BELL & BRADFUTE, EDINBURGH.

SMITH & SON, GLASGOW. HODGES, FOSTER & CO., GRAFTON STREET, DUBLIN.

THACKER, SPINK & CO., CALCUTTA. THACKER, VINING & CO., BOMBAY.

GEORGE ROBERTSON, MELBOURNE.

1877.

T  
L4382c  
1877

LONDON:  
PRINTED BY C. ROWORTH AND SONS,  
NEWTON STREET, HIGH HOLBORN.

RJF 6 May 53

TO

THE RIGHT HONOURABLE

HUGH MACCARMONT BARON CAIRNS,

Lord High Chancellor of Great Britain,

TO WHOM THE PROFESSION AND THE PUBLIC ARE SO LARGELY  
INDEBTED FOR USEFUL IMPROVEMENTS IN THE LAW.

This little Work

IS,

WITH HIS LORDSHIP'S PERMISSION,

RESPECTFULLY DEDICATED

BY

*THE AUTHOR.*

Law 1000 4/3/53

786308

Digitized by the Internet Archive  
in 2008 with funding from  
Microsoft Corporation

# CONTENTS.



	PAGE
INTRODUCTION .. .. .	1
STATE OF THE LAW BEFORE 1868 .. .. .	2
JURISDICTION .. .. .	9
NATURE OF SUIT .. .. .	12
WHAT PERSONS CAN MAINTAIN A SUIT FOR SALE OF LAND UNDER THE PARTITION ACT, 1868 .. .. .	22
REQUEST FOR SALE INSTEAD OF PARTITION .. .. .	24
REQUEST FOR SALE BY OWNERS OF A MOIETY AND UPWARDS OF THE PROPERTY (4TH SECT.) .. .. .	28
WHEN THE PARTIES REQUESTING THE SALE ARE IN A MINORITY (3RD AND 5TH SECTS.) .. .. .	33
REQUEST FOR SALE BY A MINORITY, UNDER THE 3RD SECTION ..	34
REQUEST FOR SALE UNDER THE 5TH SECTION .. .. .	40
ACCOUNT OF RENTS AND PROFITS BY TENANT IN OCCUPATION ..	45
PRACTICE .. .. .	60
LIBERTY TO BID (6TH SECT.) .. .. .	74
ABSENT PARTIES .. .. .	77
APPLICATION OF THE TRUSTEE ACT, 1850 .. .. .	83
APPLICATION OF SETTLED ESTATES ACT .. .. .	90
LEADING CASES .. .. .	93
COSTS .. .. .	109



APPENDIX .. .. .	117
------------------	-----



# TABLE OF CASES.

## A.

	PAGE
<i>Agar v. Fairfax</i> , 17 Ves. jun. 542, 557 .. .. .	112
<i>Allnatt</i> , p. 7 .. .. .	16
<i>Arnold v. Dixon</i> , L. R., 19 Eq. 113 .. .. .	27
<i>Aston v. Meredith</i> , L. R., 13 Eq. 492 .. .. .	92, 107

## B.

<i>Bailey v. Hobson</i> , L. R., 5 Ch. App. 180 .. .. .	59, 107
<i>Baring v. Nash</i> , 1 Ves. & B. 551 .. .. .	61
<i>Basnett v. Moxon</i> , 20 Eq. 182 .. .. .	88
<i>Birks v. Silverwood</i> , L. R., 14 Eq. 101 .. .. .	11
<i>Bogaja v. Camilleri</i> , L. R., 3 P. C. Cas. 258 .. .. .	8
<i>Bowra v. Wright</i> , 4 De G. & Sm. 265 .. .. .	89
<i>Brooke v. Hertford</i> , 2 Peere Wms. 518 .. .. .	89
<i>Burt v. Hellyar</i> , L. R., 14 Eq. 160 .. .. .	12, 106

## C.

<i>Calmady v. Calmady</i> , 2 Ves. jun. 568 .. .. .	9, 109, 112
<i>Cannell v. Johnson</i> , 11 Eq. 11 .. .. .	114
<i>Cartwright v. Pulteney</i> , 1 Atkins, 380 .. .. .	60
<i>Cattley v. Arnold</i> , 4 Kay & J. 595 .. .. .	19
<i>Coke upon Littleton</i> , p. 164 <i>b</i> .. .. .	21
————— p. 165 <i>a</i> .. .. .	26
————— p. 167 <i>a</i> .. .. .	16
————— p. 172 <i>a</i> .. .. .	48
————— p. 175 <i>b</i> .. .. .	23
<i>Corbet's Case</i> , 1 Coke's Rep. 87 .. .. .	21
<i>Cornish v. Guest</i> , 2 Cox, 27 .. .. .	115
<i>Crowther v. Crowther</i> , 23 Beav. 305 .. .. .	47

## D.

<i>Daniell's Chancery Practice</i> , 5th ed. 1153 .. .. .	75
<i>Davey v. Wietlisbach</i> , L. R., 15 Eq. 269 .. .. .	26
<i>Dillon v. Coppin</i> , 6 Beav. 217 .. .. .	18
<i>Dormer v. Fortescue</i> , 3 Atkins, 124 .. .. .	47
<i>Drinkwater v. Ratcliffe</i> , L. R., 20 Eq. 528 .. .. .	28, 43
————— " 532 .. .. .	37
————— " 533 .. .. .	35, 38
—————, Pemberton, 2nd ed. 574 .. .. .	68

E.					PAGE
Earl of Kildare <i>v.</i> Enstace, 1 Vernon, 421	..	..	..	..	57
Effingham <i>v.</i> Napier, 2 Peere Wms. 401..	..	..	..	..	89
Evans <i>v.</i> Bagshaw, L. R., 8 Eq. 469	..	..	..	..	16
—————, 5 Ch. App. 340	..	..	..	..	23, 104

F.					
Fearne's Posthumous Work, 243 ..	..	..	..	..	17
Fitzherbert, N. B., 62 D. ..	..	..	..	..	16
Foley, <i>Ex parte</i> , 8 Sim. 395	..	..	..	..	86
Foster <i>v.</i> Foster, L. R., 1 Ch. Div. 588	..	..	..	..	27, 91
France <i>v.</i> France, L. R., 13 Eq. 173	..	..	..	..	26
Fryer, <i>Re</i> , L. R., 20 Eq. 469	..	..	..	..	92

G.					
Gaskell <i>v.</i> Gaskell, 6 Sim. 643	..	..	..	..	22
Giffard <i>v.</i> Williams, L. R., 8 Eq. 494; L. R., 5 Ch. App. 546	..	..	..	..	105
Griffies <i>v.</i> Griffies	..	..	..	..	55
Grove <i>v.</i> Comyn, 18 Eq. 387	..	..	..	..	26, 99

H.					
Halfhide <i>v.</i> Robinson, 9 Ch. App. 374	..	..	..	..	23, 26, 100
Hanbury <i>v.</i> Hussey, 14 Beav. 152	..	..	..	..	19
Harper <i>v.</i> Bird, before V.-C. Hall, 17th April, 1875	..	..	..	..	97
Henderson <i>v.</i> Eason, 15 Sim. 306; 2 Phil. 308; 12 Q. B. 986; 17 Q. B.	..	..	..	..	49
—————, 2 Phil. 308	..	..	..	..	58
Hicks <i>v.</i> Sallitt, 3 De G., M. & G. 803	..	..	..	..	47
Higgs <i>v.</i> Dorkis, L. R., 13 Eq. 280	..	..	..	..	26
Hilary, <i>Re</i> , 2 Dr. & Sm. 461	..	..	..	..	92
Hobson <i>v.</i> Sherwood, 4 Beav. 184	..	..	..	..	22, 73
Hodges, <i>Re</i> , 3 Kay & J. 213	..	..	..	..	92
Holland <i>v.</i> Holland, L. R., 13 Eq. 406	..	..	..	..	13
Horncastle <i>v.</i> Charlesworth, 11 Sim. 315	..	..	..	..	14
Hurry <i>v.</i> Hurry, L. R., 10 Eq. 346	..	..	..	..	102
Hyde <i>v.</i> Hindley, 2 Cox, 408	..	..	..	..	54, 55

J.					
Jope <i>v.</i> Morshend, 6 Beav. 213	..	..	..	..	14, 15, 18, 60, 63
Judicature Act, 1875, Ord. XVII., Rule 2	..	..	..	..	12

L.					
Landells <i>v.</i> Baker, L. R., 6 Eq. 268	..	..	..	..	113, 114
Langmead <i>v.</i> Cockerton, W. N. 1877, p. 43	..	..	..	..	92
Lees <i>v.</i> Coulton, L. R., 20 Eq. 20	..	..	..	..	62, 87, 94

## TABLE OF CASES.

ix

	PAGE
Lorimer <i>v.</i> Lorimer, 5 Mudd. 363 .. .. .	.. 54
Lys <i>v.</i> Lys, L. R., 7 Eq. 126 .. .. .	.. 29
———, L. R., 7 Eq. 127 .. .. .	.. 93

## M.

Matthews <i>v.</i> Bishop of Bath and Wells, 2 Dick. 620, 652 .. .. .	.. 20
Meredith <i>v.</i> Hampden, 1875, M. 175 .. .. .	.. 65
Mildmay <i>v.</i> Quicke, L. R., 20 Eq. 537 .. .. .	.. 62, 68, 96
Miller <i>v.</i> Marriott, L. R., 7 Eq. 1 .. .. .	.. 114
——— <i>v.</i> Warmingington, 1 J. & W. 493 .. .. .	.. 60, 61
McMahon <i>v.</i> Burchell, 2 Phil. 131 .. .. .	.. 52
Moor <i>v.</i> Onslow, Cro. Eliz. 759 .. .. .	.. 18

## N.

Nevis <i>v.</i> Levine .. .. .	.. 109
Newburgh <i>v.</i> Bickerstaffe, 1 Vern. 295 .. .. .	.. 47
North <i>v.</i> Guinan, Beatty, 312 .. .. .	.. 15

## O.

Osborne <i>v.</i> Osborne, L. R., 6 Eq. 338 .. .. .	.. 35, 111
---	------------

## P.

Parker <i>v.</i> Gerrard, Ambler, 236 .. .. .	.. 109
Partition Act, Sect. 7, 1876 .. .. .	.. 12
——— Sect. 9, 1868 .. .. .	.. 61
——— Sect. 12, 1868 .. .. .	.. 10
Pascoc <i>v.</i> Swan, 27 Beav. 508 .. .. .	.. 46
Pemberton <i>v.</i> Barnes, L. R., 6 Ch. App. 685 .. .. .	.. 29
———, 2nd ed. p. 566 .. .. .	.. 96
———, 2nd ed. p. 574 .. .. .	.. 63, 68, 72
Pennington <i>v.</i> Dalbiac, 18 W. R. 684 .. .. .	.. 75
Peters <i>v.</i> Bacon, L. R., 8 Eq. 125 .. .. .	.. 102
Powell <i>v.</i> Powell, 10 Ch. App. 130 .. .. .	.. 67, 98
———, 10 Ch. App. 135 .. .. .	.. 35
Pryor <i>v.</i> Pryor, L. R., 19 Eq. 595; 10 Ch. App. 469 .. .. .	.. 91

## Q.

Queen <i>v.</i> Duchess of Buccleugh, 6 Mod. 150 .. .. .	.. 19
--	-------

## R.

Rawlinson <i>v.</i> Miller, L. R., 1 Ch. D. 52 .. .. .	.. 82
Roebuck <i>v.</i> Chadebet, L. R., 8 Eq. 127 .. .. .	.. 72, 95
Rowlands <i>v.</i> Evans, 30 Beav. 302 .. .. .	.. 75

## S.

	PAGE
<i>Sandford v. Ballard</i> , 30 Beav. 109 .. .. .	58
<i>Scott v. Watson</i> , Pemberton, 2nd ed. 574 .. .. .	63
<i>Senior v. Hereford</i> , L. R., 4 Ch. D. 494 .. .. .	63
<i>Simpson v. Ritchie</i> , L. R., 16 Eq. 103 .. .. .	113
<i>Slade v. Barlow</i> , L. R., 7 Eq. 296 .. .. .	12, 105
Statutes,	
31 Hen. 8, c. 1 .. .. .	2
32 Hen. 8, c. 32 .. .. .	2, 3
8 & 9 Will. 3 .. .. .	4
8 & 9 Will. 3, c. 31 .. .. .	9
3 & 4 Anne, c. 18 .. .. .	4
3 & 4 Will. 4, c. 27, s. 36 .. .. .	9
4 & 5 Vict. c. 35, s. 85 .. .. .	14
15 & 16 Vict. c. 55 .. .. .	86
25 & 26 Vict. c. 86, ss. 12, 13 .. .. .	101
31 & 32 Vict. c. 40 .. .. .	7
<i>Steed v. Preece</i> , L. R., 18 Eq. 192 .. .. .	27
<i>Storey v. Johnson</i> , 2 You. & Coll. 586 .. .. .	45, 53
<i>Swan v. Swan</i> , 8 Price, 518 .. .. .	56

## T.

<i>Taddy, Re</i> , L. R., 16 Eq. 533 .. .. .	92
<i>Tedd v. Watts</i> , L. R., 11 Eq. 213 .. .. .	13
<i>Tensdale v. Sanderson</i> , 33 Beav. 534 .. .. .	56
<i>Thompson v. Flinn</i> , L. R., 17 Eq. 415 .. .. .	11
<i>Tuckfield v. Buller</i> , Ambler, 197 .. .. .	89
<i>Turner v. Morgan</i> , 8 Ves. jun. 143; 11 Ves. jun. 157 .. .. .	5
—, 8 Ves. jun. 145 .. .. .	17, 37, 45, 53
<i>Tyson v. Fairclough</i> , 2 Sim. & S. 142 .. .. .	58

## W.

<i>Wheeler v. Horne</i> , Willes, 208 .. .. .	48
<i>Wilkinson v. Joberns</i> , L. R., 16 Eq. 14 .. .. .	29, 31, 76, 97
<i>Williams v. Games</i> , L. R., 10 Ch. App. 204 .. .. .	43, 71
—, Pemberton, 2nd ed. 575 .. .. .	72
<i>Wills v. Slade</i> , 6 Ves. jun. 498 .. .. .	46

THE  
PARTITION ACT, 1868.

---

INTRODUCTION.

---

THIS Act relates to land held by two or more persons as coparceners, tenants in common or joint tenants; and the chief object of the enactment is not partition, which means the division of the property in specie, but its conversion by sale, and a division of the proceeds of sale amongst the several persons entitled.

The title of the act, though at first sight it may be considered inapplicable, is nevertheless strictly to be justified; for the court is only authorized to make the requisite order for sale in an action FOR PARTITION. Moreover, sections 9 to 12 relate not only to those cases where a sale is sought, but to partition actions proper, and are in fact equally serviceable in both classes of actions.

## *State of the Law before 1868.*

---

Partition at  
common law.

AT common law partition could only be compelled between parceners; but by the statutes of 31 Hen. 8, c. 1, and 32 Hen. 8, c. 32, the right to claim a partition was given to every tenant in common or joint tenant of manors, lands, tenements, and hereditaments.

By statute 31  
Hen. 8, c. 1.

The first of those acts recited several of the inconveniences of enforced partnership (*a*) in land, stating that none of the owners knew their several portions, and could not by the laws of the realm otherwise occupy or take the profits of the same, or make any severance, division, or partition thereof, without either of their mutual assents and consents, by reason whereof divers and many of them, being so jointly and undividedly seised of manors, lands, tenements, and

---

(*a*) The word "partnership" is here used in its general and not its technical sense, as defined by Mr. Justice Lindley in his *Treatise on Partnership*, according to which definition the term would hardly apply, for he limits its use to cases where relation has arisen through mutual agreement, and applies the doctrine of agency to all its dealings: whereas in our case of enforced joint ownership, there has been no mutual agreement at the commencement of the relation; nevertheless, it is possible that it is strictly entitled to be called a partnership, for each owner has an undivided part of the whole, and is accountable to his co-owners for rents and profits received beyond his just share.

hereditaments, oftentimes of their perverse, covetous, and malicious minds and wills, against all right, justice, equity, and good conscience, by strength and power not only cut and fallen down all the woods and trees growing upon the same, but also have extirped, subverted, pulled down and destroyed all the houses, edifices and buildings, meadows, pastures, commons, and the whole commodities of the same, and have taken and converted them to their own uses and behoofs, to the open wrong and disherison, and against the minds and wills of other holding the same manors, lands, tenements, and hereditaments jointly or in common with them, and they have been always without assured remedy for the same. The statute then enacted that all joint tenants and tenants in common of any estate or estates of inheritance in their own rights or in right of their wives of any manors, lands, tenements or hereditaments in England or Wales, shall and may be coacted and compelled to make partition between them by writ *de participatione faciendâ*, in like manner and form as co-parceners by the common laws of this realm have been and are compellable to do.

The statute of 32 Hen. 8, c. 32, after reciting 32 Hen. 8, c. 32. that the last-mentioned statute did not extend to joint tenants and tenants in common for term of life or years, neither to joint tenants nor tenants in common where one or some of them have but

a particular estate for term of life or years, and the other have estate or estates of inheritance, enacts that in all such cases partition shall be compellable in like manner as if each held an estate of inheritance.

8 & 9 Will. 3;  
3 & 4 Anne, c.  
18.

The statute of 8 & 9 Will. 3, made perpetual by 3 & 4 Anne, c. 18 (and now repealed by the Statute Law Revision Act, 1867), was directed to facilitating the proceedings on writs of partition; and the Court of Chancery had assumed jurisdiction in cases of partition, greatly improving and practically superseding the practice which had obtained at law, but no attempts were made by the legislature fully to grapple with and redress the grievances arising out of enforced partnership in landed property until the year 1868, when the present Lord Chancellor introduced into parliament the bill for the Act of 1868, which is the subject of the present Treatise.

Evils to be  
remedied.

The evils to be remedied were not imaginary, for numberless instances were constantly occurring of properties which, either from their nature were indivisible into portions, such as a single house or a mine, or where the parties interested as owners were so numerous that the proportions of each if divided would be so small as to be valueless.

Absent parties,  
&c.

If, then, in such cases, some of the part owners were absent or under disability, there was no means of joint action to repair or lease the pro-

perty, and it frequently lapsed into a ruinous condition.

We need only refer to the well-known case of *Turner v. Morgan (b)*, where Lord Eldon pronounced a decree for the partition of a house amongst three persons, and the commissioners allotted to the plaintiff the whole stack of chimneys, all the fireplaces, the only staircase in the house, and all the conveniences in the yard. The defendant excepted to this award, but the chancellor overruled the exception, saying that he did not know how to make a better partition for the parties. He had granted the commission with great reluctance, but was bound by authorities, and it must be a strong case to induce the court to interfere, as the parties might agree to buy and sell.

Case of a single house.

The case of a mine is another instance of property which it may be physically impossible to divide between even a small number of owners, but in which very numerous owners are frequently interested as tenants in common or as joint tenants.

Mine.

Most real property lawyers were familiar with many cases in their own experience where, on account of the number of owners, dealings with property have been expensive, difficult or altogether impracticable.

Number of owners.

---

(b) 8 Ves. jun. 143; 11 Ves. jun. 157.

Court had no power to order a sale.

Devise in case of infants, &c.

Persons refusing assent.

The Court of Chancery had previously to the act no power to decree a sale instead of a partition, except by consent of all parties; and although, in the case of infants and persons under disability, the court sometimes surmounted the difficulty by the artifice of charging their costs on their shares, and then directing a sale for payment of costs; yet this device, even if successful, could hardly satisfy the dignity of the law, and the late Lord Justice Turner had doubts whether a title depending on a decree made on such grounds would be good if contested by an unwilling purchaser.

As to persons who obstinately refused to consent, no power existed to compel them however "perverse, covetous and malicious" they might be, to use the language of the statute of Henry. The author knew an instance where such a person (being himself not in want), but whose brothers and sisters were dependent for their maintenance on his concurrence in a sale or lease of their joint property, deliberately went to sea, knowing that, in the then state of the law, no dealings with the property could take place in his absence or without his consent. We may reasonably assume that the legislature had such cases as this in its contemplation, and that one object of the Partition Act of 1868 was to remove from an obstinate person the power to defeat the just claims of his co-owners.

These evils were long borne out of respect to the rights of private property, the law not treating tenancy in common as an ordinary partnership, and tenderly refraining from compelling an owner to sell his property against his will.

The time had, however, arrived when the injustice on the other hand of condemning an owner to perpetual exclusion from the fair fruits of his property came to be considered greater than that of compulsory sale to the co-owners.

Legislation in  
1868.

The present Chancellor (as we have already stated) in the year 1868 introduced a bill into parliament, which subsequently became law, to give power to the court to enforce a sale of landed property at the instance of one or more out of several co-owners of the estate.

Lord Chan-  
cellor Cairns.

This act, which is the 31 & 32 Vict. c. 40, and is entitled "An Act to amend the Law of Partition," has been no dead letter; for the session in which it passed was not over before it was put into practice, and during the eight years which have since elapsed the cases under it have been very numerous, much more so than cases for partition during that period, proving how great was the need of such a measure.

Partition Act,  
1868.

The French civil code contains a similar provision tersely expressed, "If the immoveables cannot be commodiously divided, a sale by auction must be proceeded in before the court. Nevertheless the parties, if all of age, may consent

French code.

that the auction should be made before a notary, on the choice of whom they can agree" (*b*).

Protection to  
heirs of in-  
fants.

One objection a long time made to this increase of the jurisdiction of the court in England in the case of infants and other persons under disability, viz., that their property might be converted from realty into personalty to the prejudice of their heirs, is removed by the 8th section of the act, which incorporates a provision from the Settled Estates Act, preserving the quality of real estate for the proceeds of sale (*c*).

Partition Act,  
1876.

The Supplemental Act of 1876 in no way alters the principle of the original act, but is directed to points of practice in order to facilitate its operation. Its provisions are explained hereafter; see especially pages 25 and 65, *post*.

---

(*b*) See, as to the mode of application of this law, the case of *Boyeja v. Camilleri*, L. R., 3 Priv. Conn. Cas. 258.

(*c*) Vide p. 90, *post*.

## *Jurisdiction.*

---

THE old mode of proceeding in cases of partition was at common law by writ of partition directed to the sheriff. Procedure at common law.

Courts of equity very early exercised a concurrent jurisdiction, the origin of which is somewhat obscure, but its convenience was universally acknowledged. The court directed a commission to issue, after ascertaining the interests of the parties, and that all proper persons were before the court. Lord Loughborough, Chancellor, remarked (*a*): "It is evident that the commission is much more convenient than the writ, the valuation of the proportions are much more considered, the interests of all the parties are much better attended to, and it is a work carried on for the common benefit of both." Accordingly the old common law procedure, although amended by statute (*b*), fell into disuse, and was finally abolished in the year 1833 (*c*). In Chancery.

The Partition Act, 1868, sect. 2, gives jurisdiction to the Courts of Chancery in England Court.

(*a*) *Calmady v. Calmady*, 2 Ves. jun. 568.

(*b*) 8 & 9 Will. 3, c. 31.

(*c*) 3 & 4 Will. 4, c. 27, s. 36.

and Ireland, the Landed Estates Court in Ireland, and the Court of Chancery of the County Palatine of Lancaster within their respective jurisdictions.

Judicature  
Act.

The Supreme Court of Judicature Act, 1873, enacts (*sect. 34, subsect. 2*), that all causes and matters commenced under any act by which exclusive jurisdiction has been given to the Court of Chancery shall be assigned to the Chancery Division of the High Court; and (*subsect. 3*) that all causes and matters for the partition or sale of real estates shall be assigned to the same division, so that by two express enactments the jurisdiction is now assigned to the Chancery Division of the High Court, subject, of course, to alteration by future rules of Court or orders of transfer; or to the discretion of a judge in any special case under *sect. 11* of the Judicature Act, 1875, *subs. 2*.

County court.

The county courts are given jurisdiction in cases where the property in question does not exceed the value of 500*l.*, and are to exercise the power and authority of the Court of Chancery in suits for partition in those cases (*a*).

It will be difficult in some cases to ascertain beforehand that the value of the property exceeds the limit above mentioned. In such cases the suit may proceed in the county court until

---

(*a*) Sect. 12 of Partition Act, 1868.

the excess of value is discovered and proved, when it will be the duty of the judge, under the 9th section of the County Court Act, 1865, to transfer the suit to the High Court. If, however, the excess of value is known to the plaintiff before suit, it is improper in him to commence it in the county court, and if the value appear on the face of the plaint, the county court judge will dismiss the suit under the 14th section of the County Courts Act, 1867 (*d*).

But if the excess of value is not made to appear to the court until after the suit is *in progress*, the orders made previously to the discovery of the fact of such excess are not invalidated. [Sect. 9, County Courts Act, 1865.]

---

(*d*) *Birks v. Silverwood*, L. R., 14 Eq. 101; *Thomson v. Flinn*, L. R., 17 Eq. 415.

### *Nature of Suit.*

Must be an action for partition.

THE suit, or action, as it is now called, must be an action for partition, although it is no longer necessary to pray for a partition (*a*).

An action for partition is an administrative rather than a contentious proceeding, and formerly it was not proper to import into it disputed questions of title, or to try the right to possession of the property, which is the subject of the suit (*b*). And though now, by the Judicature Act, 1875, Order XVII., different causes of action may be joined in one proceeding, yet this privilege is subject to the rule that they shall be capable of being conveniently tried and disposed of together; and actions for the recovery of land are expressly excluded from that category (*c*).

By the Partition Act, 1868, the proceeding is described as "a suit for partition where, if this act had not been passed, a decree for partition might have been made." It was obvious, therefore, that the bill in such a suit must have con-

(*a*) Partition Act, 1876, sect. 7.

(*b*) *Slade v. Barlow*, L. R., 7 Eq. 296; *Burt v. Hellyar*, 14 Eq. 160.

(*c*) Judicature Act, 1875, Ord. XVII., Rule 2.

tained a prayer for partition, although the object of the suit was sale only.

Accordingly, we find in several cases, the court directed the prayer to be amended to that effect before granting a decree for sale (*d*). The legislature, however, evidently did not mean to give to the defendants alone the right of requesting a sale; and it must therefore be considered that it was intended that a plaintiff should pray in the alternative for a partition or sale, so as to give both parties an opportunity of arguing, and the court an opportunity of deciding, on the question of expediency between partition and sale. Nevertheless the proceeding was to be a *partition suit*.

The 7th section of the Act of 1876 now provides that it shall not be necessary for a plaintiff to pray for partition; but it does not repeal the words in the original act defining the nature of the suit, it merely adds something enlarging the scope of the definition. "An action for partition," says the 7th section, "shall include an action for sale and distribution of the proceeds, and in an action for partition it shall be sufficient to claim a sale and distribution of the proceeds, and it shall not be necessary to claim a partition." But a partition need not be claimed.

The proceedings, it would seem, must still be an action in which the court can, if necessary

---

(*d*) *Tcall v. Watts*, L. R., 11 Eq. 213; *Holland v. Holland*, L. R., 13 Eq. 406.

or proper, make a judgment for partition (say, at the request of a defendant).

What estates  
are subject to  
partition.

Let us, therefore, consider what estates and what property could, before 1868, be made the subject of a partition suit.

Estates in fee.

The statute of 31 Hen. 8, c. 1, relates only to estates in fee simple; the statute of 32 Hen. 8,

Tenants for  
life or years.

c. 32, extends its provisions to joint tenants and tenants in common for term of life or years; but it was provided (*sect.* 2), that no partition under the statute should be "prejudicial or hurtful to any person or persons, their heirs or successors,

Copyholds.

other than such which be parties to the said partition, their executors or assigns." It was, therefore, ruled that copyholds were not subject to partition, as the partition might prejudicially affect the lord's rights also (*b*), for the same reason, the act did not apply to customary freeholds. But

Customary  
freeholds.

this was altered by the statute 4 & 5 Vict. c. 35, s. 85 (*c*), which enacts, that, from and after the passing of that act, it shall be lawful for any court of equity, in any suit to be thereafter instituted therein for the partition of lands of copyhold or customary tenure, to make the like decree for ascertaining the rights of the respective parties to the suit in such lands, and for the issue of a

---

(*b*) *Horucastle v. Charlesworth*, 11 Sim. 315; *Jope v. Morshhead*, 6 Beav. 213.

(*c*) Appendix, p. 122.

commission for the partition of the same land, and for the allotment in severalty of the respective shares therein, as, according to the practice of such court, may now be made with respect to lands of freehold tenure.

As to leaseholds for years, we have seen that Leaseholds. they are expressly included in the stat. 32 Hen. 8, c. 32 (c). But in a case in Ireland, before Lord Chancellor Hart (d), he refused to decree a partition of a leasehold house in Dublin between two joint tenants, because to carry out a division would be an act of waste, which the landlord might restrain by injunction. This case was cited before Lord Langdale in *Jope v. Morshead* (e).

The court has, nevertheless, frequently exercised its jurisdiction in the case of leaseholds, and it does not appear that in any recent case objection was taken to the jurisdiction of the court by any of the parties to the suit; it is presumed that the lessor would not be affected by the proceedings.

It would seem doubtful whether reversions, Reversions. expectant on an estate of freehold, are subject to the jurisdiction of the court as to partition.

Lord Coke says, that the word *tenet*, in the writ of partition, implies a tenant of a freehold, “and, therefore, if one coparcener make a lease for years yet a writ of partition doth lie; but, if

(c) Appendix, p. 119.

(d) *North v. Ginnan*, Beatty, 342.

(e) 6 Beav. 213.

one or both make a lease for life, a writ of partition doth not lie between them, because non insimul et pro indiviso *tenent*, they do not hold the freehold together, and the writ of partition must be against the tenant of the freehold" (*f*). And the Lord Chancellor (Hatherley), in *Evans v. Bagshaw* (*g*), seems to confirm the view that the doctrine of Lord Coke is in force in Chancery. But that case did not raise the point, the plaintiff there had a reversion in an undivided share, and the other shares were in possession.

In that case, moreover, Fitzherbert was not quoted, which is a distinct authority for a contrary opinion. Fitzherbert says (*h*), "Partition may be made of an advowson or of a reversion, that one shall have the reversion of such acres and another shall have the reversion of other acres, and such partition may be without deed." Fitzherbert is evidently speaking of a reversion expectant on an estate for life, else he would not have coupled it with an advowson; and this passage from the *Natura Brevium* is quoted by Mr. Allnatt in his work on Partition as an authority for the general proposition that reversions are partible (*i*).

It is clear that a joint tenancy in a reversion

---

(*f*) Co. Litt. 167 *a*.

(*g*) L. R., 8 Eq. 469; 5 Ch. App. 340.

(*h*) Fitzh. N. B. 62 D.

(*i*) Allnatt, p. 7.

or remainder can be severed by either party during the continuance of the particular estate (*h*), and to grant a partition is but a step further. It would certainly seem that the court need not now hold to a mere technical rule applicable only to the old proceedings by writ of partition, which is now abolished.

As to the nature of the property subject to partition. We have already instanced the case of *Turner v. Morgan* (*l*), where Lord Eldon held that the court had no option to refuse a commission, if demanded, on the ground of mere physical obstacles in making the division, by reason of the quality or size of the property. What species of property.

It is said in the books, however, that if a castle, that is for the necessary defence of the realm, descend to two or more coparceners, it may not be divided by chambers and rooms as other houses be, as it is *pro bono publico et pro defensione regni*. But castles of habitations for private use, that are not for the necessary defence, ought to be parted between co-parceners as well as other houses (*m*). A castle.

Partition may be made of a rent-charge, and by act of law the tenant of the land is subject to several distresses. Rent-charge.

Lord Coke says that entire inheritances (of Entire inheritances.

(*h*) Vide Fearn's Posth. Work, p. 243.

(*l*) 8 Ves. jun. 145.

(*m*) Co. Litt. 165*a*.

which several are found in the books) are not divisible, and some inheritances which are divisible shall not be divided among parceners.

Estovers,  
corody,  
homage, pis-  
chary, com-  
mon.

He instances estovers appendant to a freehold tenement or corody uncertain, homage and fealty, a pischary uncertain, or a common sans nombre; and he mentions a case of covenant in a deed (in favour of Lord Mountjoy) that the covenantee might dig for ore in certain waste lands, and take turf for making of alum.

Different  
modes of par-  
tition.

May be given  
wholly to one  
party.

Nevertheless, these inheritances are subject to partition in one of two ways. If the property to be partitioned consist only partly of such indivisible inheritances so that they can be awarded to one party, the others having an equivalent in other portions of the joint estate, then the partition may proceed on that footing (*o*).

Alternate  
enjoyment.

Should the circumstances of the property, however, be such as to render such an arrangement impossible, then the court may direct a scheme for alternate enjoyment, by means of which each has the usufruct for a time.

Manor.

In the case of a manor, we find in an old case in *Cro. Eliz.* (*p*), that a writ of partition of a manor was held good. It was objected that a view of frankpledge was not severable, but it was holden to be well enough, for although not

---

(*o*) *Jope v. Morshhead*, 6 Beav. 213; *Dillon v. Coppin*, Ibid. 217, n.

(*p*) *Moor v. Onslow*, *Cro. Eliz.* 759.

severable in itself, as Anderson and Glanvill held (but Walmsley and Kingsmill contra), yet the profits thereof may be divided, or it may be decided that one shall have it all one time, and the other at another time; and also, it was pointed out that being demanded to be partitioned with other property, the writ well lies, for it may be entirely allotted to one and laid in recompense to another.

In the more recent case of *Hanbury v. Hussey* (*q*), before Sir John Romilly, Master of the Rolls, it was again argued that a manor could not be divided, and was therefore not a fit subject for a suit for partition; but Lord Romilly decided otherwise, remarking that the word “manors” is expressly used in the acts of Henry VIII. He decided that although the word was in the plural, yet that the statute applied to a case of one manor, notwithstanding that by law a manor is “an entire thing,” and not severable (*r*).

Lord Coke gives an example of the alternate Land. occupation of land by two parceners:—“But there be other partitions in deed than have been here mentioned. For if a partition made between two co-parceners that the one shall have and occupy the land from Easter until the

(*q*) 14 Beav. 152. See also *Cattley v. Arnold*, 4 K. & J. 595, and cases there cited.

(*r*) Vide *The Queen v. Duchess of Buccleugh*, 6 Modern, 150; *Cattley v. Arnold*, 4 K. & J. 595.

1st August only in severalty by himself, and that the other shall have and occupy the land from the 1st August until the feast of Easter yearly, to them and their heirs, this is a good partition."

Advowsons.

The case of advowsons is similar: a partition may be made to take effect by means of alternate presentations (*t*). The 7 Anne, c. 28, provides, that if co-parceners or joint tenants or tenants in common be seised of any estate of inheritance in an advowson, and a partition be made between them to present by turns, every one shall be taken and adjudged to be seised of his or her separate part of the advowson, to present in his or her turn; and if there be two, and they make such partition, each shall be said to be seised, the one of the one moiety, to present in first turn, and the other of the other moiety, to present in the second turn; in like manner, if there be three, four or more, every one shall be said to be seised of his or her part and to present in his or her turn (*u*).

Mill.

The case of a mill is mentioned by Lord Coke, who says (*x*), "and if it be of a mill, one may have the mill for a time and the other for a like time, &c., or the one toll dish and the other the second, &c., and this appeareth to be the ancient law, for it is said:

Other hereditaments.

*"Sunt aliae res hereditariae quae veniunt in partitionem, quae cum dividi non possunt, conce-*

---

(*t*) *Matthews v. Bishop of Bath and Wells*, 2 Dick. 652.

(*u*) See Appendix, p. 107.

(*x*) Co. Litt. 165 a.

*duntur uni; ita quòd aliæ cohæredes alibi de communi hæreditate habeant ad valorem, sicut sunt vivaria, piscariæ, parci; vel saltem quòd partem habeant pro defectu, sicut secundum piscem, tertium vel quartum; vel secundum tractum, tertium vel quartum. Item, in parci secundam, tertiam aut quartam bestium."*

In this way even the services of a villein have been partitioned (*y*). Villein.

These cases of partition by alternate enjoyment of the joint property are partitions only as to possession and profits, and do not effect a severance of the estate of inheritance (*z*). Partitions as to profits do not effect severance of estate.

It will be seen that both in the Act of Anne and in Coke the arrangement as to alternate enjoyment is nevertheless spoken of as a "PARTITION," and there will therefore be few cases where an inheritance is not, under the rules laid down by the foregoing authorities, the subject of partition of one kind or other.

Should such cases, however, occur, it would seem that the Partition Act, 1868, would not apply to them, nor would it enable the court to order a sale adversely, although the same reasons which prevented its decreeing a partition might not operate against the policy of a sale; as the words of the statute are precise, and restrict its operation to those cases in which the court could decree a partition. Sale cannot be decreed where no partition possible.

(*y*) Co. Litt. 164 *b*.

(*z*) *Corbet's case*, 1 Co. Rep. 87.

*What Persons can maintain a Suit for  
Sale of Land under the Partition Act,  
1868.*

---

By the terms of the statute, the plaintiff must be a person who might have maintained a suit for partition if the act had not passed.

Co-parceners.

At common law, the right to insist on partition was only in the case of co-parceners; in early times, probably, other cases would be rare.

Joint tenants,  
tenants in  
common.

We have seen that the statute of 31 Henry VIII. gave the right to every joint tenant or tenant in common in possession to sue for partition, and the statute of 32 Henry VIII. extended the right to tenants for life or years (*a*).

Tenants for  
life or years.

The right of a tenant for life to a partition is not affected by the circumstance that his estate is determinable before his death by any circumstance (such as, for instance, his marriage) (*b*).

Reversioner.

A reversioner of an undivided share has no such right. We have already discussed (*ante*, p. 15), whether an estate in reversion may be made the subject of a partition; but it is clear that if a man have only a reversionary interest in a moiety or other undivided share, he cannot bring an action for partition against the owners in possession of

---

(*a*) *Gaskell v. Gaskell*, 6 Sim. 643.

(*b*) *Hobson v. Sherwood*, 1 Beav. 184.

the other moiety or shares. And he cannot cure the defect of title by acquiring the estate in possession during the progress of the suit (*c*).

A tenant by the curtesy is entitled to claim partition under the statute of Henry VIII. (*d*). Tenant by curtesy.

At common law, an infant could sue out a writ of partition by his next friend. Infant.

In Chancery, an infant or married woman could sue for a commission for partition. Married woman.

A lunatic may sue by his committee, who must, however, be authorized to that effect by an order in lunacy. Lunatic.

On the other hand, a person of unsound mind, not so found by inquisition, cannot properly sue for partition by a next friend; the matter must be dealt with in lunacy (*e*). Person of unsound mind.

Subject to the foregoing observations, any joint tenant, or tenant in common, or other person having an undivided interest in land might formerly sue for partition; and now, under the Statute of 1868, may bring an action for sale under the statute.

(*c*) *Evans v. Bagshaw*, L. R., 8 Eq. 469, and 5 Ch. App. 340.

(*d*) Co. Litt. 175 *b*.

(*e*) *Halfhide v. Robinson*, L. R., 9 Ch. App. 373.

## *Request for Sale instead of Partition.*

---

Right to demand partition not taken away.

It must be borne in mind that the recent act, in giving the court the power of directing a sale, where formerly only a partition could have been decreed, has not taken away the right of a tenant in common or joint tenant to demand a partition in the last resort if a sale be denied.

This *prima facie* right of every owner to a partition underlies the jurisdiction. But the right is now limited by the statute, the court having acquired power to refuse to give effect to it, if a sale be requested by proper parties in one or other of the special cases or circumstances mentioned in the act.

Request for sale;

This exceptional jurisdiction of the court is therefore founded on a REQUEST from some one or more owners of the property. And the cases to which the act applies may be divided into two classes: (1) where the *request* comes from the owner or owners of an equal or the largest share; (2) where the *request* comes from the owner or owners of less than a moiety of the property.

by whom to be made;

Let us, therefore, in the first place, consider who may make the request, and how it should be made.

Until the Act of 1876 there was a technical difficulty in the way of a request for sale from a plaintiff. We have seen that it was necessary for him to pray for a partition; therefore, when the plaintiff desired a sale, the practice was to pray for a partition or for a sale (in the alternative), and at the hearing to request a sale (*a*). This practice, though somewhat inconsistent where the sole object of the suit was sale, and not partition, satisfied the exigencies of the case, as defined by the statute. Now, however, it is enacted by the 7th section of the Act of 1876, that a partition need not be prayed for; and, therefore, the plaintiff may, in his statement of claim, request a sale, which course, in a contested case, would not only be proper and convenient, but probably important with a view to his success before the court; and possibly, also, as to costs.

A defendant may request a sale when the plaintiff sues for partition, and it has been the practice to allow this also to be done at the hearing, although in contested cases it would clearly be convenient and proper, and also important with a view to the costs of suit, that the request should appear distinctly on the pleadings, so that the evidence may be directed to the question of expediency, or otherwise, of the desired sale.

Formerly it was doubted whether an infant or

---

(*a*) Vide Form of Decree, p. 51, post.

person under  
disability.

married woman could request a sale (*b*), even though it might be for his or her benefit; but now by the Partition Act, 1876, sect. 6, it is provided that a request for sale may be made on the part of a married woman, infant, person of unsound mind, or person under any other disability, by the next friend, guardian, committee in lunacy (if so authorized by order in lunacy), or other person authorized to act on behalf of the person under such disability; but the court shall not be bound to comply with any such request on the part of an infant, unless it appear that the sale will be for his benefit.

Lunatic.

Person of un-  
sound mind.

We have seen from the observations of Lord Justice James, in the case of *Halfhide v. Robinson* (*c*), that a person of unsound mind cannot commence an action for dealing with his real estate by a next friend, and that it is proper in the case of such a person to take proceedings in lunacy and obtain an order for the committee to bring the action.

Those observations were made by the learned judge before the Act of 1876, but they would now apply to the case of a request for sale under the act to be made either by counsel at the hearing or by a defendant in his pleading.

(*b*) Vide *France v. France*, L. R., 13 Eq. 173; *Higgs v. Dorhis*, 13 Eq. 280; *Darey v. Wietlisbach*, 15 Eq. 269; *Grove v. Comyn*, L. R., 18 Eq. 387.

(*c*) L. R., 9 Ch. App. 374.

It may be here noticed that a sale of an infant's estate under the Partition Acts does not operate as a conversion of realty into personalty. Conversion.

A sale rightfully made is no doubt a conversion in every case (*Steed v. Preece*) (*d*), and the property must be taken by the heir or personal representative in the state in which it is found, unless there is an equity to have it reconverted. The importation, however, of the Leases and Sales of Settled Estates Act into the Partition Act, 1868, creates such an equity in case of a sale directed by the court of a share of an infant or person under disability (*Foster v. Foster*) (*e*).

Equity for reconversion.

But when the person is of full age whose estate is ordered to be sold, and he dies between the date of the decree and the sale, then the conversion is complete, and the proceeds of sale must be treated as personal estate (*Arnold v. Dixon*) (*f*).

(*d*) L. R., 18 Eq. 192.

(*e*) L. R., 1 Ch. D. 588.

(*f*) L. R., 19 Eq. 113.

*Request for Sale by Owners of a  
Moiety and upwards of the Pro-  
perty (4th Sect.).*

*In a suit for partition where, if this act had not been passed, a decree for partition might have been made, then if the party or parties interested, individually or collectively, to the extent of one moiety or upwards in the property to which the suit relates, request the court to direct a sale of the property and a distribution of the proceeds instead of a division of the property between or amongst the parties interested, the court shall, unless it sees good reason to the contrary, direct a sale of the property accordingly, and give all necessary or proper consequential directions.*

Onus on de-  
fendant.

This section casts on the parties objecting to a sale the onus of satisfying the court of the greater benefit to the parties of a partition over a sale, otherwise the court is bound to order a sale.

As the Master of the Rolls observed in the case of *Drinkwater v. Ratcliffe* (a), "The parties interested to the extent of one moiety are entitled to a sale as of right, unless there is some good reason to the contrary shown; they have not to

---

(a) L. R., 20 Eq. 528.

show any reason for the sale, but a reason to the contrary must be shown."

The reported cases decided on this section are *Lys v. Lys* (b), *Pemberton v. Barnes* (c), and *Wilkinson v. Joberns* (d).

In *Lys v. Lys*, the plaintiffs requesting the sale *Lys v. Lys*. owned between them one moiety, and, although one of the plaintiffs was an infant, Vice-Chancellor Giffard was of opinion, "That the act threw on the defendants opposing the sale the onus of showing that it ought not to be directed, and no sufficient reason against a sale had, in his opinion, been adduced by the defendants in their affidavit; a sale would therefore be directed."

*Pemberton v. Barnes* was a case which came *Pemberton v. Barnes*. before Lord Hatherley (Chancellor), on appeal from Vice-Chancellor Malins. The Vice-Chancellor had laid down the doctrine of construction as follows:—"It is not the object of the act, so far as I can see, that in all cases the owners of one moiety of an estate, because they think that by selling it altogether they could get more money for it than by selling it in parts, may force on the owners of the other moiety the obligation to submit to have their property converted into money. It therefore appears to me, that whenever the court sees that there is not

---

(b) L. R., 7 Eq. 126.

(c) L. R., 6 Ch. App. 685.

(d) L. R., 16 Eq. 14.

· sufficient reason for selling, it ought not to direct a sale." But the Lord Chancellor, in overruling the Vice-Chancellor's decision, remarked, "The 4th section makes it imperative on the court, in a certain state of circumstances, to order a sale, unless it sees good reason to the contrary, that is to say, the onus is thrown on the person who says that the court ought not to order a sale, to show some reason why it should not do so." Again, in the same judgment, the Lord Chancellor proceeds thus:—

"The only question remaining is, what is the meaning of the words 'unless the court sees good reason to the contrary'? The whole judgment of the learned Vice-Chancellor proceeds upon this principle:—'I do not think the legislature could have meant that large estates, where there is no difficulty about partition, should be sold.' The answer to that is this: The difficulty of partition is dealt with in section 3, and there is not in section 4 a single word about the size of the estate or the difficulty of partition: it simply speaks of a case where half the parties interested desire a sale, and it provides that they shall have a preponderating voice. Why they should have it is not for me to say, but the legislature has thought fit to say so. It would be striking the section out of the act to say that the owners of the other moiety have no more to do than to come and say, 'We do not wish for a sale.' The

legislature has said that there shall be a sale if the owner of one moiety asks for it, unless good reason be shown to the contrary. The Vice-Chancellor has said (for he puts his judgment quite as high as that), 'I cannot see why one party should be turned out of his moiety against his wish, simply because the owner of the other moiety says that he desires the estate to be sold.' The Vice-Chancellor then urges as a reason against a sale, that the two part-owners come from a common ancestor, and that the testator gave the estate to them as land. No doubt he gave it as land; but he gave it to them absolutely, and there was nothing to prevent them from disposing of it as they thought fit. Consequently, I do not see that its coming from a common ancestor makes any great difference. Neither party has ever lived upon the property. It has been vacant ever since the death of the tenant for life for about six years, and the parties who object to a sale have been living two hundred or three hundred miles off all this time. I cannot see that any reason is given against a sale beyond this, that the owners of one moiety object to it; and I cannot think it a sound construction of the act to say that this is a sufficient reason."

*Wilkinson v. Joberns* (e) was a case where the sale was resisted by the defendant, who owned a

*Wilkinson v.  
Joberns.*

moiety, and was tenant of the whole estate. He endeavoured to show that a sale would be disastrous to himself, and that a partition was quite feasible ; Lord Selborne, Lord Chancellor (sitting for the Master of the Rolls), however, said : “ I think the plaintiffs are entitled to what they ask. The act of parliament clearly throws the burden of proof upon the tenant in common who resists sale and claims partition.”

As to reasons  
for refusal.

There is as yet no authority to show what the court would consider as a sufficient reason under the 4th section to warrant a refusal of a sale requested by the owners of a moiety of the property. It would appear, however, from the foregoing cases, that loss or inconvenience to one party alone will not be sufficient reason.

*When the Parties requesting the Sale  
are in a Minority (3rd and 5th Sects.).*

---

THE onus in these cases rests with the party or parties requesting the sale, who must convince the court of the general expediency of a sale rather than a partition (3rd section), or of the hardship of a partition to a particular owner, in which case the court can order a sale at the request of such owner without being convinced of its abstract expediency, provided the other owners refuse to purchase his share at a valuation (5th section).

Onus on party  
requesting sale.

*Request for Sale by a Minority, under the  
3rd Section.*

---

POWER TO COURT to order Sale instead of Division.]—“ *In a suit for partition, where, if this act had not been passed, a decree for partition might have been made, then if it appears to the court that, by reason of the nature of the property to which the suit relates, or of the number of the parties interested or presumptively interested therein, or of the absence or disability of some of those parties, or of any other circumstance, a sale of the property and a distribution of the proceeds would be more beneficial for the parties interested than a division of the property between or among them, the court may, if it thinks fit, on the request of any of the parties interested, and notwithstanding the dissent or disability of any of the others of them, direct a sale of the property accordingly, and may give all necessary or proper consequential directions.*”

It will be observed that there are two things essential to the obtaining a judgment or order for sale under this section, viz., first, a request from some party interested; and, secondly, satisfactory evidence that a sale of the property and

a distribution of the proceeds will be more beneficial for the parties interested than a partition.

We have already treated (a) of those requests, and we must now consider the question of estimated advantage to the parties from the adoption of one course rather than the other.

In the first place, the advantage must be an advantage to *the parties* interested, not to one or more of those parties (b). Benefit must be to the parties collectively.

And the benefit must be a substantial pecuniary benefit, not a fanciful or sentimental benefit. In *Drinkwater v. Ratcliffe* (c), Sir G. Jessel, Master of the Rolls, remarked, "I am to direct a sale if I am of opinion that the sale would be more beneficial for the parties interested. What does that mean? It means in a pecuniary sense. I cannot go into questions of sentiment, I must look to the monetary results. Must be substantial benefit.

"Now it is proved and not denied that the value of the farm is very much larger to sell than its rental would imply. It is stated that there are factories in the neighbourhood, and this property, which is sworn to by the defendant as being worth 36*l.* a year, the plaintiff's witnesses say would fetch 2,600*l.*,—the defendant's witnesses, it is not worth so much; but they do not venture

(a) Ante, p. 24.

(b) Vide *Osborne v. Osborne*, 6 Eq. 338; *Powell v. Powell*, 10 Ch. App. 135.

(c) L. R., 20 Eq. 533.

to say how much less it is worth, from which I come to the conclusion that even in their opinion it would fetch very much more than the something over 1,000*l.*, which would be its value at thirty years' purchase; probably it may be worth sixty years' purchase, or something of that sort, which would be 2,000*l.*; the plaintiff's witnesses put it as high as 2,600*l.* It is a farm so situated that it can be used for other purposes than farming purposes. It is advantageous for *all persons interested that it should be sold instead of divided* in a pecuniary sense, which, as I have said before, is the only one I am called upon to deal with. I therefore direct a sale."

In determining the question of comparative benefit to the persons interested of selling or dividing their estate, the principal matters to be considered are those enumerated in the section under discussion, viz.:—(a) *The nature of the property*; (b) *The number of parties interested*; and (c) *The absence or disability of some of the parties interested*.

To this catalogue the section adds (d) *any other circumstance*, so that the court is absolutely unfettered in its choice of reasons for coming to a decision on the question of the superior benefit, or the contrary, to the parties of a sale over a partition of the property.

Nature of  
property;

*The Nature of the Property.*.]—The property may not be practically capable of division; a

single house for instance, such as the court had <sup>a house;</sup> to deal with in the case of *Turner v. Morgan* (d); or it may be a property which, though physically capable of division, could not be divided equally. Such as we may imagine in the case of a house and land where the land could not be conveniently held without the house, and the house might be <sup>house and land;</sup> too large to be held with only a portion of the land, or the property would suffer materially in value from not being sold as a whole.

We may again quote from the judgment in <sup>a farm.</sup> *Drinkwater v. Ratcliffe* (e), where the Master of the Rolls, speaking of the division of a property, consisting of a farm-house and outbuildings and thirty acres of land, into thirty-six parts, says, "How that is to be done I have not a notion. The plaintiff's witnesses say it is practically impossible. All the defendant's witnesses say it is not impossible. I agree it is not impossible; but it certainly is very difficult, especially as one does not know how the farm-house would go, or what its value is, or whether it would be divided or not divided. But if ever there was a case, where by reason of the nature of the property you could not divide it conveniently, we have it here."

*The Number of the Parties interested.*]—There <sup>Number of owners.</sup> may be cases where the property is perfectly

---

(d) 8 Ves. jun. 145.

(e) L. R., 20 Eq. 532.

capable of convenient division into a moderate number of shares, but where the parties are so numerous as to render a sale expedient. This will often be a relative estimate; for what would be a large number in the case of a small property might not be excessive in the case of a large estate, if nothing in the nature of the property required its being preserved entire.

In *Drinkwater v. Ratcliffe* (*f*) (already quoted), the Master of the Rolls, in addition to his observations on the *nature of the property*, proceeded as follows:—

“The next ground specified by the section is number of parties. Here it is quite obvious that there are a great number of parties; six of them would have one thirty-sixth apiece (the property consisted of a house and thirty acres), and there are three more; there are nine altogether, and some of them are married women, whose husbands would have to join.”

It is well known that many hundreds of persons are sometimes interested in one property.

Absence or  
disability.

*The Absence or Disability of some of the Parties.*]—Absence or disability of some of the parties interested in landed property is doubtless a good reason why the other persons should desire to put an end to the joint ownership,

---

(*f*) L. R., 20 Eq. 533.

because there may in that case be no power of leasing, repairing or improving the property. It is not, however, at first sight easy to see how this circumstance could bear on the question of whether a sale or a partition of any particular estate would be most beneficial to the parties interested, for the difficulties of management would only operate against the absent parties and apply to their shares if partitioned, if there were no other reason against the partition.

*Any other Circumstance.*]—These words give the court a wide discretion.

*Notwithstanding the Dissent or Disability of any other of the Parties interested.*]—The court Notwithstanding dissent of majority. is to exercise its unfettered discretion as to the benefit to the aggregate of the parties interested. This enactment puts an end to the possibility of a wilful or perverse obstruction to a sale by some of the persons interested, even if a majority.

### *Request for Sale under the 5th Section.*

---

As to Purchase of Share of Party desiring Sale.]—" *In a suit for partition, where, if this act had not been passed, a decree for partition might have been made, then if any party interested in the property to which the suit relates requests the court to direct a sale of the property and a distribution of the proceeds instead of a division of the property between or among the parties interested, the court may, if it thinks fit, unless the other parties interested in the property, or some of them, undertake to purchase the share of the party requesting a sale, direct a sale of the property, and give all necessary or proper consequential directions; and in case of such undertaking being given the court may order a valuation of the share of the party requesting a sale, in such manner as the court thinks fit, and may give all necessary or proper consequential directions.*"

In order to understand this provision it is necessary to revert to the former cases enumerated by the act.

Application of  
the 5th section.

In the first place (as we have seen), where the parties requesting the sale have more than a moiety, the court is bound to give effect to their wish, unless it disapproves altogether of the sale;

therefore the 5th section must be intended to apply only to cases where the parties desiring the sale are in a minority; and, moreover, the case must be one where those parties are unable to satisfy the court that the sale would be more beneficial, or more profitable in a pecuniary sense for all the persons interested in the estate, that it should be sold rather than divided, otherwise it would come under the 3rd section. We must, however, suppose the court so far to approve of the proposal as to be desirous of exercising its jurisdiction in favour of the plaintiff or other party requesting a sale, whose personal views or interest require a sale (although a sale might not result in advantage to the owners taken collectively), and to consider it a case where justice requires that the person requesting the sale should not be put to disadvantage in realizing his share. Under these circumstances the legislature considers it just that if the majority resist a sale they should purchase the share of that person at a proper valuation. Accordingly, although the court cannot compel them so to purchase, the act arms the court with the power to order a sale of the whole estate if they refuse to do so.

This jurisdiction of the court is based on the possible hardship to one or a few of the parties interested of compelling them to take their share in specie by means of a partition as the only

Hardship to individual owners.

means of realizing their property; it is entirely independent of any general benefit to the parties interested in the estate taken collectively.

Case of coal mine.

The owner of a very small share, say  $\frac{1}{30}$  in a coal mine, for instance, might find his undivided share entirely valueless to him for the cost which would be incurred by sinking a shaft and working it separately, and yet it might be impossible to show the court that a sale of the whole mine would be more beneficial to *the parties interested* (meaning the whole of them collectively) than a partition; on the contrary, the majority might be interested in the opposite result, for, if they agreed together, they might go on working  $\frac{29}{30}$ ths of the mine just as profitably as the whole, and have one the less with whom to divide the profits.

Majority must buy share of minority or submit to a sale of the whole.

The unfortunate owner of the share, which we will suppose he is under the absolute necessity of realizing, would in such case probably find himself compelled to sacrifice it altogether or to sell it to his partners at any price they might choose to give for it. To remedy this state of things, the court has now the power to interpose, and require the owners of the bulk of the property, if they wish to preserve it from sale, to buy the share of the person compelled or desiring to realize at a fair valuation.

This great, but not unjust benefit, is thus conferred on owners of small shares in large estates,

who were formerly almost entirely at the mercy of the owners of the greater proportion, if circumstances compelled them to realize (*vide* the judgment of the Master of the Rolls in the case of *Drinkwater v. Ratcliffe* (a)).

It will, however, be observed that the act gives no power to the court to require any owner to sell his share to his co-proprietors. It can only make the latter buy or submit to a sale. The provision was intended for the benefit of the party applying for a sale; and if the court will not grant his application, he may withdraw his request, and, falling back on his rights, claim a partition.

No power to insist on sale of share by party requesting sale of the whole.

This is exemplified by the case of *Williams v. Games* (b), where the plaintiff was owner of one-seventh of the estate, and the persons owning the other six-sevenths were defendants.

*Williams v. Games.*

The plaintiff prayed for a sale or partition, but requested a sale.

The owner of one other seventh also desired a sale; but the owners of five-sevenths resisted that measure. The Master of the Rolls, Sir G. Jessel, under these circumstances, made a decree that certain of the defendants undertaking to purchase the two-sevenths, a valuation thereof should be made, and that the owners of the two-sevenths should be paid the amount of the valuation, and

---

(a) 20 L. R., Eq. 528.

(b) 10 Ch. Ap. 204.

execute conveyances of their shares; and that, thereupon, an inquiry should be made as to the persons entitled, and a partition be made accordingly. The plaintiff, however, on appeal, insisted on a sale or partition of the whole estate, not being satisfied with the prospect of a valuation of his share, and preferring to that course a partition.

The Lords Justices held that he was right, that the court could not compel one part owner to sell his share against his consent; but that if he were held not to be entitled under the statute to an order for sale of the whole estate, he might withdraw his request for a sale, and insist on a partition. Their lordships, therefore, reversed the decree of the Master of the Rolls, and made a decree for partition in the usual terms (giving no costs of the appeal).

## *Account of Rents and Profits by Tenant in Occupation.*

---

WHERE one of several co-tenants has been in occupation of land previously to a suit or action for its partition or sale, the question arises whether his possession has been in respect of the entire estate or only of his undivided share.

Nature of possession,

If he has enjoyed by virtue of a lease or other agreement from his companions or co-tenants, then he must account for rents, issues and profits received by him, or pay an occupation rent or an agreed rent, according to circumstances.

by lease or agreement.

In *Turner v. Morgan* (a), the occupying tenant, who was the owner of a third share and had held the whole property under a lease up to a certain time, was decreed to pay an occupation rent for the time subsequent to the expiration of his lease.

*Turner v. Morgan.*

In *Storey v. Johnson* (b), the occupying tenant (A) was owner in fee simple of one undivided third of the estate, lessee of one other third, under B, and the remaining third belonged to C. The court ordered him to pay to B the rent reserved by the lease of the one-third

*Storey v. Johnson.*

---

(a) 8 Ves. 145.

(b) 2 You. & Coll. 586.

belonging to B, and to pay an occupation rent for the remaining third to C. Lord Abinger, in delivering judgment, said:—It appears, therefore, upon this part of the case that Johnson ought to account to Storey or Ed. Jones for one third part of the rent reserved by that lease since Hall's death, and that he ought to account to W. S. Jones (C) for one-third part of the fair occupation rent, to be determined by the master."

*Pascoe v.  
Swan.*

*Pascoe v. Swan* (c) was the case of an infant's one-third share. The defendant, who was entitled in his own right to another third, had been in occupation of the estate, which was a farm, and had appropriated the profits. The infant, who was the plaintiff, prayed for a partition, and that defendant might pay an occupation rent in respect of the plaintiff's third share. The Master of the Rolls held that the defendant must be considered as having entered on the estate of the infant, and must pay an occupation rent, but he was to be allowed for lasting improvements.

Infants.

It seems from this case, and from other cases where infants are concerned, that the court will presume that the occupying tenant has entered on the infant's estate, unless the contrary clearly appears, and will charge him with an occupation rent, although no lease or agreement is proved.

The reason for this lies in the rule that a

---

(c) 27 Beav. 508; see also *Wills v. Slade*, 6 Ves. jun. 498.

party entering on an infant's estate enters as guardian or bailiff of the infant, and equity treats him as a trustee (*d*).

But if it is shown that the infant never was constructively in possession, and that the occupying tenant is in upon a different title, then the presumption in favour of the infant does not arise.

In *Crowther v. Crowther* (*c*), Lord Romilly, *Crowther v. Crowther.* M. R., thus expressed himself: "The court will not allow an infant to be turned out of possession of an estate without legal process, and accordingly the cases cited are all instances of a person intruding on an infant in possession, either by himself or his guardian or bailiff; but if it is admitted that the infant never was in possession or in the enjoyment of the property either by himself or his guardian, he stands in the same position as any other person, and must first establish his legal title. That is the case here; it is not alleged that the infant was ever in possession either by himself or his guardian, but the bill alleges an adverse title under a contract entered into by the infant's father. It is a mere case of adverse possession under a title springing from a contract entered into by his father."

---

(*d*) *Dormer v. Fortescue*, 3 Atk. 124; cited by Lord Cranworth, *Hicks v. Sallitt*, 3 De Gex, M. & G. 803.

(*c*) 23 Beav. 305; see also *Newburgh v. Bickerstaffe*, 1 Vern. 295.

Possession by  
tenant in his  
own right.

Stat. Anne,

Where the occupation of one of several co-tenants has been in his own right merely as owner of an undivided moiety or other share, the case rests upon the statute 4 Anne, c. 16, which provides that actions of account shall and may be brought and maintained by joint-tenants and tenants in common and their executors and administrators against each other as bailiffs for receiving more than comes to their just share and proportion.

at common  
law.

An action of account would not lie by one tenant in common against another as his bailiff at common law, unless he were so particularly appointed (*f*).

*Wheeler v.*  
*Horne.*

Such an action must have been brought under the statute of Anne above referred to. This was explained in the case of *Wheeler v. Horne* (*g*) to be a very different proceeding, both on principle and in practice, first, because a bailiff at common law is answerable not only for his actual receipts, but for what he *might* have made of the lands but for his wilful default; whereas under the statute he is answerable only for so much as he has *actually* received more than his just share and proportion: secondly, because the auditors in an action of account at common law could not administer an oath unless in one or two special

---

(*f*) Co. Litt. 172*a*.

(*g*) *Wheeler v. Horne*, Willes, 208.

cases, whereas by the statute (*h*) the auditors might examine the parties on oath.

*Henderson v. Eason* (*i*) is considered the leading *Henderson v. Eason.* case on this question. That was an administration suit, where the defendant Eason was the brother and executor of the testator, and had suffered the latter for several years before his death to occupy exclusively a farm, of which they were co-tenants in common in equal moieties, without demanding or receiving any rent or other remuneration from him. The testator cultivated the farm and appropriated the produce to his own use. The Master in Chancery, under the circumstances, allowed a claim by the defendant to retain out of the testator's estate a moiety of the amount of six years' fair occupation rent for the entire farm; and the Vice-Chancellor (Shadwell) confirmed the master's report. Lord Cottenham, however, overruled this decision, and directed an action at law to be brought by the defendant against the other executor, on the ground that there was no relief in equity unless the case were one in which an action would lie at law.

The Court of Queen's Bench decided in favour of the right of the plaintiff in the action to an account of profits; and judgment was entered up that the defendant as executor should account

---

(*h*) Vide Appendix, p. 120.

(*i*) Reported 15 Sim. 306; 2 Phil. 308; 12 Q. B. 986; 17 Q. B. 701.

with the plaintiff for the time aforesaid (six years), in which the testator was bailiff, &c., and an account was afterwards taken by two masters of the Court of Queen's Bench, who found that the sum of 900*l.* was due to the plaintiff from the defendant (*i*).

Distinction  
between taking  
and receiving.

Statute only  
applies to  
money received  
from a third  
person.

From this decision there was an appeal to the Court of Exchequer Chamber, where it was overruled in an elaborate judgment delivered by Baron Parke. That learned judge (drawing a distinction from the words of the statute between *receiving* and *taking* more than his just share, and observing that there was no mention of *issues and profits* in the statute, but merely the receipt of *more* than the just share) laid down that the statute was only applicable where the tenant in common received *money* or something else which another person gives or pays. The statute, therefore, in the view of the court included all cases in which one of two tenants in common of lands leased at a rent payable to both, or of a rent-charge or any money payment in kind due to them from a third person, receives more than his proportionate share according to his interest in

---

(*i*) From the statements in the judgment of Baron Parke it would appear that this sum was computed as a fair occupation rent, and not as the balance of an account of issues and profits, for the judgment expressly points out that there is no evidence of profit. It was, in fact, the same sum as had been already found by the Master in Chancery as a fair occupation rent.

the subject of the tenancy. But the court saw insuperable difficulties in extending the operation of the statute to cases in which one has enjoyed more of the benefit of the subject or made more by its occupation than another. It thought it inequitable to hold in the case of a dwelling-house, barn, or room solely occupied by one tenant in common without ousting the other, that by the simple act of occupation he should be liable to a rent. Again, in the case of land, where one employs capital and labour in cultivating it, the risk of the cultivation with the profit and loss were his own, and the court considered that since he could not claim a moiety of the loss, if any, as he would, had the land been cultivated by the mutual agreement of the cotenants, he ought not to be accountable for the profits.

Occupation  
rent.

The learned judge, however, remarked that the evidence stated in the bill of exceptions did not show whether a profit had been made in the case before the court or whether the occupation had been by mutual agreement, and the court, therefore, only decided that upon the evidence in that case (*k*) there was nothing to warrant the

Questions not  
raised in plead-  
ings.

---

(*k*) It was agreed at the hearing that, as the defendant had received the whole profits, he must have received more than his share. The court seemed to think it was possible he might have made a loss. The masters had, however, found that 900*l.* was due on the account. It must have

No evidence  
for jury.

jury in coming to the conclusion that the defendant had received more than his just share within the meaning of the act; also that there was no evidence that he had had the care or management of the farm for the common profit of the co-tenants, as averred in the declaration. The result of the decision was to reverse the judgment of the Court of Queen's Bench, and to pronounce against the right to recover the 900*l.* from the occupying tenant found by the masters to be due from him under the foregoing circumstances.

*M. Mahon v.*  
*Burchell.*

In the case of *M. Mahon v. Burchell* (1), Lord Cottenham said that the proposition, that a plaintiff, having occupied a house not in entirety but as a tenant in common, should thereby become liable to his co-tenants, was contrary to law; for the effect would be that one tenant in common, by keeping out of the actual occupation, might convert the other into his bailiff,—in other words, prevent the other from occupying except on terms of paying him rent.

There might, however, (he added) be various modes of occupation which would make the party occupying liable for rent to the other tenants in common.

Distinction  
between.

From these cases it would seem that one great distinction to be drawn is between a claim for

---

been taken as an occupation rent, and that there was no evidence of profit, although the report is not explanatory on this point.

(1) 2 Phillips, 131.

occupation rent and a claim for an account of rents and profits received.

The former cannot arise without agreement, Occupation rent. except in the case of an infant, where the court raises a presumption of law in favour of the infant; there must (between persons *sui juris*) be consent express or implied creating the relation of landlord and tenant, such as was to be inferred in the case of *Turner v. Morgan* and *Storey v. Johnson*, before referred to (*m*).

The rule as to rents and profits as laid down in *Henderson v. Eason* would appear to be as follows:—

In the first place, the occupying tenant must Rent received from third persons; account for all sums of money received by him in respect of the entirety by way of rent or rent-charge payable to both, or any money payment or payment in kind due to them from another person.

But insuperable difficulties were said to arise when it is attempted to apply the statute to *issues and profits* made by an occupying tenant from the cultivation of the land. and issues and profits from cultivation of the land. At common law. We have seen that the language of the judgment went further than was necessary for the case in hand; as the court in fact in that case only decided against allowing an occupation rent, observing that upon the evidence there was nothing to warrant the

jury in coming to the conclusion that the defendant had received more than his just share within the meaning of the act, or made any profit at all. The difficulty contemplated by the court as to taking the account never arose; moreover, it was a difficulty arising out of common law practice, and would not have been insuperable in a court of equity.

In Chancery.

In the case of *Hyde v. Hindley* (n), Lord Kenyon, Master of the Rolls, directed an account of rents and profits (but not of timber felled).

In the case of *Lorimer v. Lorimer* (o), Vice-Chancellor Leach held, that if on a partition bill the defendant appeared to have received more than his just share of the rents and profits of the estate, the court would direct an account, and would not, in analogy to law, confine the relief to partition merely.

It does not appear from these two last-mentioned cases what would be included in the term "profits;" but if anything more than rent received from strangers, they must now be considered to have been overruled by Lord Cottenham's decision in *Henderson v. Eason*, that the court would not allow a claim unless and until the party had established a claim at law.

---

(n) 2 Cox, 408.

(o) 5 Madd. 363.

The sale of timber from an estate would not necessarily fall within the observations of Baron Parke as to the risk and profit of cultivation, and the proceeds of such sale might almost be treated as money received from third persons to be divided among the parties interested in the land. Proceeds of sale of timber.

We have, however, seen that in the case of *Hyde v. Hindley*, the court, in granting an account of rents and profits received by the defendant, omitted (we must suppose intentionally) to direct an account (which was prayed) of timber felled on the estate.

And in the case of *Griffies v. Griffies*, V.-C. *Griffies v. Griffies.* Kindersley expressly decided against an account for the sale of timber; he made the following observations: "As each party is entitled to enter on the whole property, there can be no claim by one tenant in common against another for an occupation rent. As to cutting down trees and the other acts of waste alleged in the bill, each tenant in common is entitled to exercise acts of ownership over the whole property, and no charge can therefore be sustained in consequence of such an act. As both parties concur in asking for an account of rents and profits received from strangers, an inquiry with respect to them may be made, and also with respect to substantial repairs and improvements."

The last remark brings us to the concluding branch of this subject.

Money laid out  
in repairs and  
improvements.

If a tenant in common or joint tenant who has been in occupation of the estate have expended moneys on substantial repairs and improvements, he is entitled to be reimbursed what he has necessarily so expended, or expended with the concurrence of his co-tenants (*Swan v. Swan*) (p).

*Teasdale v.  
Sanderson.*

But in *Teasdale v. Sanderson* (q) Lord Romilly, Master of the Rolls, refused to grant the defendant an account of money spent in repairs and improvements, unless he would, on the other hand, agree to pay an occupation rent, observing, "These accounts must be reciprocal, and unless the defendant is charged with an occupation rent, he is not entitled to any account of substantial repairs and improvements." The decree in that case was accordingly drawn up without any direction for either account.

Summary.

To sum up the present state of the law on this subject, it would appear—

1. That if one co-tenant has been in occupation or receipt of rents and profits by agreement with his companions, if *sui juris*, or if by presumption of law in the case of infants he has entered on their estate, he must account for profits or pay rent, which latter will be either an agreed sum or a sum to be ascertained as a fair occupa-

---

(p) 8 Price, 518.

(q) 33 Beav. 534.

tion rent; and he may, on the other hand, claim payment or a set-off for money laid out by him in substantial repairs and improvements.

2. If, however, the tenant in occupation be in possession as of his own estate alone or be in receipt of rents and profits in his own right, and without agreement from his companions, then he is only accountable to them for rent or other money actually received from strangers (in which category is not to be included money received by the sale of produce of the land, nor even purchase-money of timber); and although he is entitled to be reimbursed a proportion of the money laid out by him in substantial repairs and improvements of the property, the court will not allow him to receive this benefit unless he submit to pay an occupation rent, or to account for those profits which cannot otherwise be strictly claimed against him.

Whether this state of the decisions is thoroughly satisfactory, or in accordance with the spirit or true interpretation of the statute of Anne(*r*), may be questioned; but since the observations

---

(*r*) In the argument of the case, *Earl of Kildare v. Eustace*, 1 Vern. 421, it was said that the jurisdiction of the courts of equity was grounded on the statute which made one tenant in common accountable to the other, so that since that statute they had become, as it were, trustees the one for the other (quoted in Vin. Abr. tit. Partition, p. 241, and Allnatt, 79).

of Lord Cottenham, in the case of *Henderson v. Eason* (s), above referred to, the doctrine of the courts can hardly be altered, except by a review of the cases in the Court of Appeal, unless, indeed, the recent Judicature Act should be held to have effected a change, in a matter somewhat technical in character.

Since the Partition Act of 1868, the question is of less importance, as every tenant in common may now sue for a sale of the property, if it be not capable of partition.

Receiver.

It may, moreover, occasionally be desirable to apply to the court for a receiver before sale.

The court will not grant a receiver if partition or sale is not prayed (t), and even in a partition suit, where the parties are *sui juris*, it would probably not do so before the hearing.

In case of  
infants.

But where infants are concerned, if the receipt of the rents or the occupation of the property is in the hands of one party, or where there is no person competent to give a valid receipt for rent, under the old practice the court was frequently in the habit of granting orders to appoint a receiver in partition suits before the hearing; and in many cases, from the impossibility or difficulty of actual partition, the suit never proceeded beyond that stage.

(s) 2 Phillips, 308.

(t) *Tyson v. Fairclough*, 2 Sim. & St. 142; *Sandford v. Ballard*, 30 Beav. 109.

Also, after a judgment for sale now under the powers of the Partition Act, probably the court would have jurisdiction to appoint a receiver until sale, if the tenant in occupation were declared to be trustee for his co-tenants within the meaning of the Trustee Act, 1850. Effect of Trustee Act.

The court, however, in the case of *Bailey v. Hobson* (*u*), refused to interfere by injunction to prevent one tenant, after a decree for sale in a partition suit, from removing hay, turnips, and other crops from the land, even though such removal was contrary to custom, as between landlord and tenant. In that case Lord Justice Giffard (reversing the decision of V.-C. Stuart) held, that the defendant (who was in possession in his own right without consent of the plaintiff, and under no lease or agreement from the other undivided owners) was entitled to remove such crops, as the act complained of did not amount to waste, and the relation of landlord and tenant was not established. The powers of the Trustee Act were not invoked in that case. Injunction.

But it is presumable that the court would in any case interfere to restrain an occupying tenant in possession from actual waste or destruction of the property. Actual waste.

---

(*u*) L. R., 5 Ch. App. 180.

*Practice.*

Pleadings. THE plaintiff must clearly show his title to his  
 Statement of plaintiff's title. undivided share of the estate by his statement of  
 claim. It was formerly necessary that the plaintiff  
 should show a legal title; an equitable title was  
 not in strictness sufficient to support a partition  
 suit (*a*). The reason given was, that the plaintiff  
 would not be able to convey his share if his title  
 were merely equitable. But in the case of *Cart-*  
*wright v. Pulteney* (*b*), where an equitable title  
 only was shown by the bill, Lord Hardwicke  
 did not consider the objection insuperable. He  
 decreed the partition, directing the parties on  
 both sides to procure their trustees to convey,  
 and the master to settle the conveyances.

Trustee Act. Now, under the new act, probably an equitable  
 title would suffice, even on technical grounds,  
 and the powers of the Trustee Act would be  
 available to get in the legal estate.

Defendant's title. The defendant's title need not be minutely  
 stated in the plaintiff's statement of claim, nor

---

(*a*) *Miller v. Warmington*, 1 J. & W. 493; *Jope v. Morshead*, 6 Beav. 213.

(*b*) 1 Atk. 380.

need all the owners of other undivided shares be made parties in the first instance. For the plaintiff is not supposed to know the titles of all his co-owners (*c*), and no objection can now be taken by the defendants for want of parties to a partition suit (*d*). But it is of the essence of a partition suit that the title of the plaintiffs and defendants should spring from one root. There can be no partition between persons having distinct or adverse titles as independent owners (*Miller v. Warmington*) (*e*).

The pleadings should likewise show the grounds on which the court is asked to exercise its jurisdiction. Reasons for sale.

If the plaintiffs requesting a sale own a moiety or upwards, it will be sufficient to say that they desire a sale, and the defendants, if they seek to resist the sale, must state the grounds on which they rely to sustain their objection.

If, however, the plaintiffs own less than a moiety, they should state a case giving them a right to it under the 3rd or 5th sections, and it will then be sufficient for the defendants to traverse the statements of the plaintiffs.

If one party has received more than his just Account. share of rents and profits, or, on the other hand, if a party have expended his own money in permanent improvements of the joint property, then

---

(*c*) *Baring v. Nash*, 1 Ves. & B. 551.

(*d*) Sect. 9 of Partition Act, 1868.

(*e*) 1 Jac. & W. 493.

the facts should be stated on the pleadings, and an account be asked for.

Judgment at  
the hearing.

The court will in a proper case make a judgment or order for a sale under the powers of the Partition Act, 1868, at the hearing of the cause without preliminary inquiries, if all parties are before it and the title has been duly proved and the proper requests have been made (*Lees v. Coullton* (f); *Mildmay v. Quicke*) (g).

Preliminary  
inquiries.

Usually, however, the court directs preliminary inquiries, and the following are forms of a judgment or order for sale under the powers of the three several sections of the act, which we have previously considered:—

#### *Under the 4th Section.*

4th section.

Upon motion for judgment this day made unto the court by counsel for the plaintiffs, and upon hearing counsel for the defendant, and upon reading the plaintiffs' statement of claim:

Request by  
plaintiffs.

And the plaintiffs *who claim to be interested in a moiety and upwards of the hereditaments in the pleadings mentioned by their counsel, requesting a sale thereof*, and a distribution of the proceeds instead of a division of the said hereditaments between or among the parties interested:

The court doth order that an inquiry be made who are the parties interested in the hereditaments and property in the pleadings mentioned, and for what estates and interests, and in what shares and proportions, and whether they are parties to this action:

And if it shall be certified that all the parties in-

(f) L. R., 20 Eq. 20.

(g) L. R., 20 Eq. 537.

interested are parties to this action *and that the plaintiffs are interested to the extent of one moiety or upwards in the said hereditaments :*

It is ordered that the said hereditaments be sold with the approbation of the judge :

And it is ordered that the money to arise from such sale be paid into court to the credit of this action (*h*) :

But if it shall be certified that all parties interested are not parties to this action, then it is ordered that any of the parties interested are to be at liberty to apply to the judge at chambers for a sale of the said hereditaments when it shall have been certified that the persons who ought to be served with notice of this order have been so served, *and that the parties or party interested collectively or individually to the extent of one moiety or upwards in the said hereditaments request a sale :*

And it is ordered that the further consideration of this action be adjourned, and any of the parties are to be at liberty to apply as they should be advised.

The plaintiff must, of course, prove his title. Evidence.  
The court will not grant an inquiry in order to enable the plaintiff to complete his own title (*i*).

The only evidence necessary for the hearing in an unopposed case under the 4th section, where the plaintiff owns a moiety and requests a sale, unless he desires to dispense with the preliminary inquiries, is the proof of the instrument creating the joint tenancy, and a general affidavit concisely verifying the facts stated in the statement of claim, including the plaintiff's title.

---

(*h*) *Scott v. Watson* (V.-C. Hall), 1876, S. 180; *Pemberton*, 2nd ed., p. 574; *Senior v. Hereford*, 4 Ch. Div. 494.

(*i*) *Jope v. Morshead*, 6 Beav. 213.

The defendant may resist a sale if he can show the court "good reason" against it, the onus lying on him.

In a contested case, therefore, evidence would be required to rebut the case made by the defendant.

Request by  
defendant.

We have seen that the defendant in a partition suit may request a sale, and that the court must grant it if the defendant owns a moiety or upwards of the property, unless the plaintiff can show good reason to the contrary.

Upon motion for a decree this day made unto this court by counsel for the plaintiffs, and upon hearing counsel for the defendant, and upon reading the answer of the defendant filed the 20th day of September, 1875, an affidavit of the plaintiffs filed the 22nd day of December, 1875, and the admissions dated the 4th day of January, 1876, signed by the solicitors for the plaintiffs and the defendant, and the documents therein referred to; and *the defendant by his counsel requesting a sale* of the hereditaments and premises in the bill mentioned devised by the will of the testator in the bill named, and a distribution of the proceeds instead of a division of the said hereditaments and premises between or among the parties interested, this court doth order that the following inquiries and accounts be made and taken, that is to say:—

1. An inquiry who are the several persons interested in the said hereditaments and premises, in what shares and proportions and for what estates and interests, and whether such persons are respectively parties to this cause.
- [2. An inquiry what incumbrances affect the entirety

of the said hereditaments or of any and what parts thereof.

3. An account of what is due to such of the incumbrancers as shall consent to the sale hereinafter directed in respect of their incumbrances.

4. An inquiry what are the priorities of such last-mentioned incumbrancers] (*i*).

And if it shall be certified that all persons entitled to the said hereditaments and premises are parties to this cause, *and that the defendant is interested to the extent of one moiety or upwards in the said hereditaments and premises:*

It is ordered that the said hereditaments and premises be sold, with the approbation of the judge, [free from the incumbrances (if any) of such of the incumbrancers as shall consent to the sale, and subject to the incumbrances of such of them as shall not consent] (*i*): and it is ordered that the money to arise by the sale of the said hereditaments and premises be paid into court to the credit of this cause (*Meredith v. Hampden*, 1875, M. 175); [and if such money or any part thereof shall arise from real estate sold with the consent of incumbrancers, the money so arising be applied in the first place in payment of what shall appear to be due to such last-mentioned incumbrancers according to their priorities] (*i*). But in case it shall appear that any person interested in the hereditaments and premises or any part thereof are not parties to this cause, it is ordered that the plaintiffs be at liberty to apply to the judge in chambers for an order for sale after it shall have been certified that the persons so interested who are parties have been served with notice of this decree, and it is so ordered that the further consideration of this cause be adjourned, and any of the parties are at liberty to apply as they may be advised.

---

(*i*) See observations post, p. 66.

It will be seen, from the language of the foregoing forms of order under the 4th section, that parties requesting a sale may have a conditional order for sale at the hearing, subject to proof of their title to a moiety or upwards of the property.

But if the parties requesting a sale should prove to have less than a moiety, then it will be necessary to come again to the court on further consideration and to show a case under the 3rd or 5th sections.

As to directing inquiry relating to incumbrances.

It is open to question whether the clauses relating to incumbrances, which we have distinguished by brackets in the last form, should be inserted except in special cases by the discretion of the court. If omitted, the inquiry as to the persons interested will still include all such incumbrancers as come in to prove their claims, and the others would be left to their ordinary remedies. There seems to be no adequate reason for specially protecting those incumbrancers who do not assert their claims; and, on the other hand, a very great burthen is cast on the plaintiff and other parties to a partition action, and serious expense and delay may be caused by special inquiries as to incumbrancers. For with such inquiries it will be necessary for the chief clerk to have an affidavit in respect of every share before he can make his certificate, or the sale proceed. If we suppose a case where some hundreds of shares exist, the owners of

which are scattered in various parts of the world, it is easy to see how expensive and fruitful of delay such a process must be. The same observations apply to an inquiry whether any of the parties have settled their shares.

In any case the chief clerk's certificate must be made before a sale can be proceeded with, as Certificate must precede sale. there is no power in the court to decree a sale until the court is satisfied that the parties whose interests are affected have had due notice or are protected. Therefore a sale made by anticipation before certificate in a partition suit of a portion of the property was set aside on the application of the purchaser to be discharged from his contract (*Powell v. Powell*) (j).

### *Under 3rd Section.*

Here the parties requesting a sale own less 3rd section. than a moiety; the pleadings should show the circumstances which render a sale expedient rather than a partition.

We have treated of these circumstances above (vide page 34).

Evidence of the circumstances relied on should Evidence. be given by the parties requesting a sale. Such parties may be either plaintiffs or defendants. The court will, at the hearing, decide on the weight to be given to the reasons for sale, and, if sufficient, will refer it to chambers to

---

(j) L. R., 10 Ch. App. 130.

inquire as to parties, subject to which inquiry the sale will proceed without coming back to the court.

Form of order. The plaintiffs [*or* defendants], by their counsel, requesting a sale of the lands and premises, situate, &c.; and it appearing to the court that by reason of the nature of the said property [*or* of the number of the parties alleged to be interested or presumptively interested therein, &c.] a sale of the property and a distribution of the proceeds will be more beneficial for all the parties interested than a division of the property between or among them, Let an inquiry be made who are the parties interested in the said lands and premises, and in what shares and proportions, and for what estates and interests. And if it shall be certified that all the parties entitled to or interested in the undivided shares in the said hereditaments are parties to this cause, and that ——— [*the parties requesting the sale*] are some of such parties, Let the said lands and premises be sold with the approbation of the judge. Directions for payment into court of purchase-money. But if it shall be certified that all the persons interested are not parties to this action, Let any of the persons interested be at liberty to apply to the judge at chambers for a sale of the said hereditaments when it shall have been certified that all persons who are not parties and who ought to be served with notice of this order have been so served. Adjourn further consideration. Liberty to apply (*k*).

#### *Under 5th Section.*

5th section.

A case comes under the 5th section where a plaintiff requesting a sale has less than a moiety

---

(*k*) See *Mildmay v. Quicke* (M. R.), L. R., 20 Eq. 537; *Drinkwater v. Rotcliffe*, L. R., 20 Eq. 528; *Pemberton*, 2nd ed., p. 574.

and is unable to convince the court of the necessity of a sale, or that a sale would be for the benefit of the majority of the parties interested. In such case the plaintiff must satisfy the court that hardship will be inflicted on him if he should be prevented from realizing the value of his share, and he should therefore direct his evidence to this question.

The court in such case may call on the defendants to undertake to purchase the plaintiff's share, or in default may order a sale.

The order in the latter event will be similar to the form of an order under the 3rd section, with the following recital:—

Upon motion, &c. made unto the court by counsel Form of order. for the plaintiffs, and upon hearing counsel for the defendants and reading, &c.:

And the plaintiffs who claim to be interested in one-seventh part of the hereditaments in the pleadings mentioned by their counsel requesting a sale thereof, and a distribution of the proceeds instead of a division of the said hereditaments between or among the parties interested:

And the defendants who claim to be interested in the remaining six-sevenths of the said hereditaments refusing to undertake to purchase the share of the plaintiffs at a valuation, and it appearing to the court that the plaintiff cannot otherwise realize the full value of his share by a sale thereof separated from the remaining shares of the said hereditaments, and the court in the exercise of its discretion, having regard to the circumstances aforesaid and to the nature of the property, considering it fit to grant the plaintiff's request for sale:

This court doth order that the following inquiries be made, that is to say—

An inquiry who are the parties interested [*&c. as under 3rd section*].

Undertaking  
to purchase.

In the event of the defendants giving an undertaking to purchase, the judgment may be in the following form:—

And the defendants W. G., G. G. and R. F., by their counsel, undertaking to purchase, and the plaintiffs, by their counsel, consenting to sell, the one-seventh share to which the plaintiffs are entitled of the messuages and lands situate, &c., and also the one-seventh share of the said premises to which the defendant J. L. is entitled at a valuation, Let a valuation be made in chambers of such shares respectively accordingly. And in case the said defendants W. G., G. G. shall require the same, Let an inquiry be made whether a good title can be made to the said shares respectively. And in case the said defendants shall not require such inquiry, or in case it shall appear that a good title can be made, Let the defendants W. G., G. G. and R. F., within ten days after the date of the chief clerk's certificate, pay to such persons as shall be certified to be entitled to receive the same the respective amounts of such valuation, and thereupon let the plaintiff and the defendant J. L., or such of them as shall be necessary, and all other necessary parties, execute a proper conveyance of the said shares respectively to the defendants W. G., G. G. and R. F. (such conveyance to be settled by the judge), and let the costs of such valuation be paid by the said W. G., G. G. and R. F. (such costs to be taxed, &c. in case the parties differ).

But it has been already shown (p. 44, ante) that the court cannot compel a plaintiff to sell

his share if he should refuse to do so; and it therefore follows, that if in such case the plaintiff is not considered to be entitled to a sale on one of the grounds mentioned in the 3rd section, he must elect either to have a partition or to have his action dismissed.

He may, however, claim to have a partition, which is his primary right, and in that case the usual partition decree will be made (*Williams v. Games*) (l). Partition may be claimed.

The following is the form of the usual judgment for partition, which is thus the last resort of a plaintiff to whom the court refuses a sale:—

This court doth order that an inquiry be made who are the parties entitled to the hereditaments in the pleadings mentioned, and in what respective shares or proportions, and for what respective estates and interests, [and whether any and which of such shares are subject to any and what settlement or incumbrance] (m): Form of judgment for partition.

And if it shall appear that all the parties entitled to or interested in the said shares and interests (m) [or the settlement thereof or incumbrances thereon respectively], are parties to this action, it is ordered that a partition be made in chambers of the said hereditaments between the several parties interested therein:

And it is ordered that the several portions of the said hereditaments which shall be allotted to the parties in respect of their respective shares and interests, be held by them in severalty according to such allot-

(l) L. R., 10 Ch. App. 204.

(m) See observations ante, p. 66.

ments [and subject to the settlements and incumbrances, if any, affecting the same respectively] (*m*):

And it is ordered that the parties do execute mutual conveyances of the said allotments, such conveyances to be settled by the judge:

And it is ordered that all deeds and writings relating to the said hereditaments in the custody or power of any of the parties, be produced on oath before the judge as he shall direct:

And let such parts thereof as relate to the premises which shall be allotted to each of the said parties, be delivered to them respectively:

And it is ordered that such deeds and writings as relate to any part of the said hereditaments, which shall be allotted to one of the said parties jointly with other parts allotted to the others or other of them, be deposited with the clerk of records and writs until further order:

Liberty to apply (*n*).

Sale of part  
and partition  
of other part.

There is nothing to prevent the court from ordering a sale of part and a partition of other part of the same estate in the same action. This was done in the case of *Roebuck v. Chadebet* (*o*), both parties being willing; but whether this could be done adversely has not been decided, and may be doubted. The case of *Williams v. Games* (*p*) does not immediately bear on this point, but some of the observations may have an

(*m*) See observations ante, p. 66.

(*n*) *Williams v. Games* (M. R.), February 20, 1874; Pemberton, 2nd ed., p. 575.

(*o*) L. R., 8 Eq. 127.

(*p*) L. R., 10 Ch. App. 201.

indirect application, and do not favour the opinion that the court could adversely order a part only of an estate to be sold and the rest partitioned.

On the other hand, it was said in *Storey v. Johnson*, and other cases, that the whole of an estate need not necessarily be partitioned under the old law. This must, however, mean that the court need not insist, for any party having an undivided share may claim a partition as of right.

It was frequently the case that the court refrained from extending the partition to the shares of those who did not desire separation (*q*). The case of a sale is, however, different; for a part of an estate will not always sell as well as the whole, and the statute of 1868 does not seem to contemplate the sale of a part only.

It was, however, argued in *Roebuck v. Chadebet* that two suits might be brought, one for partition, the other for sale; and, therefore, it may be in the power of a plaintiff, if not of a defendant, to arrange the proceedings as to give the court power to direct a sale of one part and partition of another part of a large and complex property.

---

(*q*) *Hobson v. Sherwood*, 4 Beav. 184.

### *Liberty to bid (Sixth Sect.).*

---

6. AUTHORITY for Parties interested to bid.]—  
*On any sale under this act the court may, if it thinks fit, allow any of the parties interested in the property to bid at the sale, on such terms as to nonpayment of deposit, or as to setting off or accounting for the purchase-money or any part thereof, instead of paying the same, or as to any other matters, as to the court seem reasonable.*

Analogy to  
partnership.

The practice as to the conduct of the sale under a judgment or order in a partition suit is analogous to that adopted in sales in suits for dissolution of partnership, of the partnership property.

It is both beneficial and right that each co-owner of property sold under the Partition Act should have leave to bid—on the one hand, the greater the number of bidders the better the sale, and, on the other hand, no person has a better right to try to become the purchaser than one whose share in the property has been forcibly converted for the general benefit.

Conduct of the  
sale.

The plaintiff usually has the conduct of the sale, and, if he desires to bid, it is apprehended

that the proper course is that adopted in the case of *Rowlands v. Evans* (a), where, in a suit for dissolution of partnership, both parties were allowed to bid, and the conduct of the sale was given to an indifferent person.

And it is ordered that [ ] be sold, with the approbation of the judge, by a person to be appointed by the said judge for that purpose.

Where all parties to the action have liberty to bid, a solicitor not concerned for any of them to be mutually agreed on, or in default of agreement to be nominated by the judge, will be appointed to conduct the sale (b). Solicitor appointed to conduct the sale.

In *Pennington v. Dalbiac* (c), V.-C. Malins Exception. allowed the plaintiffs to bid although they had the conduct of the sale, and although there were absent parties and parties under disability. In that case no objection was raised, and the Vice-Chancellor, without wishing to break in upon the general rule, thought it a peculiar case. It would not follow, however, in any similar case, that the purchaser might not take an objection after the sale, or that some of the absent parties might not apply to invalidate the sale, if the plaintiffs became the purchasers.

If a party to the action, who is interested in Deposit.

(a) 30 Beav. 302.

(b) Vide Daniell's Ch. Pr., 5th ed. 1153.

(c) 18 W. R. 684.

the property sold to the extent of upwards of one-tenth share, should also become the purchaser of the estate, it would be manifestly just in the majority of cases to dispense with the usual deposit of 10 per cent. usually made by purchasers on account of the purchase-money, and this the court has power to do under the 6th section.

Retention of  
part of pur-  
chase-money.

It is equally just that such a purchaser should be allowed to set the value of his own share against the purchase-money payable for the whole estate, and only pay into court the difference. The Master of the Rolls made an order to this effect in the case of *Wilkinson v. Joberns* (*d*). In that case the defendant, owning half the estate, was the purchaser, and he was only required to pay a moiety of the purchase-money into court.

---

(*d*) L. R., 16 Eq. 14.

### *Absent Parties.*

---

THE court will not direct a sale without having all persons interested in the freehold of the estate before it.

But in order to avoid injustice to persons having absent persons for their co-owners, various provisions have been made by the Acts 1868 and 1876 for enabling the parties who are present, and desire to insist on their rights, to obtain a partition or sale in spite of the absence of their co-owners. Owners out of jurisdiction.

The same provisions apply in cases where the parties, although not out of the jurisdiction, are either unknown or so numerous that they cannot be personally served without an expense disproportionate to the value of the property. Numerous or unknown.

The 9th sect. of the Partition Act, 1868, is as follows:—

9. Parties to Partition Suits.]—*Any person* 9th section.  
*who, if this act had not been passed, might have maintained a suit for partition, may maintain such suit against any one or more of the parties interested, without serving the other or others (if any) of those parties; and it shall not be competent to any defendant in the suit to object for*

Inquiries.

*want of parties; and at the hearing of the cause the court may direct such inquiries as to the nature of the property, and the persons interested therein, and other matters, as it thinks necessary or proper with a view to an order for partition or sale being made on further consideration; but all persons who, if this act had not been passed, would have been necessary parties to the suit, shall be served with notice of the decree or order on the hearing, and after such notice shall be bound by the proceedings as if they had been originally parties to the suit, and shall be deemed parties to the suit; and all such persons may have liberty to attend the proceedings; and any such person may, within a time limited by general orders, apply to the court to add to the decree or order.*

Service of decree or order.

The above quoted provision is supplemented by the 3rd sect. of the Partition Act, 1876—

3rd sect. Partition Act, 1876.

3. Power to dispense with Service of Notice of Decree or Order in Special Cases.]—*Where in an action for partition it appears to the court that notice of the judgment on the hearing of the cause cannot be served on all the persons on whom that notice is by the Partition Act, 1868, required to be served, or cannot be so served without expense disproportionate to the value of the property to which the action relates, the court may if it thinks fit, on the request of any of the parties interested in the property, and notwithstanding the dissent*

*or disability of any others of them, by order, dispense with that service on any person or class of persons specified in the order, and, instead thereof, may direct advertisements to be published at such times and in such manner as the court shall think fit, calling upon all persons claiming to be interested in such property who have not been so served to come in and establish their respective claims in respect thereof before the judge in chambers within a time to be thereby limited. After the expiration of the time so limited all persons who shall not have so come in and established such claims, whether they are within or without the jurisdiction of the court (including persons under any disability), shall be bound by the proceedings in the action as if on the day of the date of the order dispensing with service they had been served with notice of the judgment, service whereof is dispensed with; and thereupon the powers of the court under the Trustee Act, 1850, shall extend to their interests in the property to which the action relates as if they had been parties to the action; and the court may thereupon, if it shall think fit, direct a sale of the property and give all necessary or proper consequential directions.*

Advertisements instead of service in certain cases.

Application of Trustee Act, 1850, to absent parties.

4. Proceedings where Service is dispensed with.]—Where an order is made under this act dispensing with service of notice on any person or

Proceeds of sale.

*class of persons, and property is sold by order of the court, the following provisions shall have effect:—*

Payment into court.

(1.) *The proceeds of sale shall be paid into court to abide the further order of the court:*

Time for distribution to be fixed.

(2.) *The court shall, by order, fix a time, at the expiration of which the proceeds will be distributed, and may from time to time, by further order, extend that time:*

Notice of sale having taken place.

(3.) *The court shall direct such notices to be given by advertisements or otherwise as it thinks best adapted for notifying to any persons on whom service is dispensed with, who may not have previously come in and established their claims, the fact of the sale, the time of the intended distribution, and the time within which a claim to participate in the proceeds must be made:*

Distribution of proceeds.

(4.) *If at the expiration of the time so fixed or extended the interests of all the persons interested have been ascertained, the court shall distribute the proceeds in accordance with the rights of those persons:*

Where all parties have not been ascertained.

(5.) *If at the expiration of the time so fixed or extended the interests of all the persons*

*interested have not been ascertained, and it appears to the court that they cannot be ascertained, or cannot be ascertained without expense disproportionate to the value of the property or of the unascertained interests, the court shall distribute the proceeds in such manner as appears to the court to be most in accordance with the rights of the persons whose claims to participate in the proceeds have been established, whether all those persons are or are not before the court, and with such reservations (if any) as to the court may seem fit in favour of any other persons (whether ascertained or not) who may appear from the evidence before the court to have any primâ facie rights which ought to be so provided for, although such rights may not have been fully established, but to the exclusion of all other persons, and thereupon all such other persons shall by virtue of this act be excluded from participation in those proceeds on the distribution thereof, but notwithstanding the distribution any excluded person may recover from any participating person any portion received by him of the share of the excluded person.*

Exclusion from participation.

Form of judgment under 9th section.

The following is a form of judgment under the 9th section of the original act :—

Let an inquiry be made who are the persons respectively entitled to the lands and hereditaments in the pleadings mentioned, and for what estates and interests respectively, and in what shares and proportions, and whether they or any and which of them are parties to this action.

Presumption of death without issue after seventeen years.

In the case of *Rawlinson v. Miller* (a), V.-C. Malins presumed an owner of an undivided sixth share, who had not been heard of for seventeen years, to have died without issue, and the Vice-Chancellor held the purchaser bound to accept the title.

---

(a) L. R., 1 Ch. D. 52.

## *Application of the Trustee Act, 1850.*

---

7. APPLICATION of Trustee Act.]—*Section thirty of the Trustee Act, 1850, shall extend and apply to cases where, in suits for partition, the court directs a sale instead of a division of the property.*

The object of the incorporation of the 30th section of the Trustee Act into the Partition Act, 1868, is to render possible a conveyance of the legal estate in every case where the court shall have directed a sale of land under the powers of the latter act. Object of section,

It is clear that, in any case where the court has jurisdiction to make judgment or order for sale, such order binds in equity the interests of all persons, whether or not they are in existence; but, without the aid of the Trustee Act, in many cases, no conveyance of the legal estate could be made to the equitable owner. to bind legal estate;

The effect of the powers of that act is to bind the legal estate. The 30th section enacts, that where any decree (now judgment) shall be made by any court of equity for partition of lands, it shall be lawful for the court to declare any of the parties to be trustees within the meaning of the act, or to declare concerning the interests

of unborn persons who might claim under any party to the suit, or under the will or voluntary settlement of any person deceased, who was, during his lifetime, a party to the transactions concerning which such decree is made,—that such interests of unborn persons are the interests of persons who, on coming into existence, would be trustees within the meaning of the act.

to effect a  
severance of  
estate.

The effect of such declaration is to make the beneficial ownership of such co-owner recede from those parts of the land awarded to others and become concentrated on the share awarded to him, so that he is by operation of law transformed from an owner in his own right of an undivided share in the whole property into an exclusive owner in his own right of a part only, and a bare trustee for his co-owners of an undivided share in the remainder of the property.

Power to make  
vesting order  
or appoint  
person to  
convey.

If, therefore, any owner so declared to be a trustee is under disability or is absent or refuses to convey, the previous clauses of the Trustee Act will come into operation, by virtue of which the court has power either to make a vesting order in favour of or to appoint a person to convey the estate of the trustee to the person or persons beneficially entitled under the partition.

In case of sale,  
trust for pur-  
chaser.

In case of a sale being ordered under the Partition Act, 1868, the trust created by the decree or judgment of the court will be in favour of the purchaser instead of the co-owners of the

property. And the court will make an order vesting the estate of the trustee so constituted in the purchaser, or will appoint a person to convey such estate to the purchaser on his behalf.

It will be seen from what has been said, that, although the 30th section of the Trustee Act is alone mentioned, yet that many other sections of that act are, in fact, imported into the Partition Act—more especially the following:—

Other sections  
of Trustee Act.

Sects. 3 and 4, conferring power on the Lord Chancellor to make vesting orders, having the effect of a conveyance or release of lands or contingent rights in land held or possessed by lunatics or persons of unsound mind upon any trust.

Sects. 7 and 8. The like power to the Court of Chancery in the case of infant trustees.

Sects. 9, 10, 11 and 12. The like power to the Court of Chancery in the case of trustees who are out of the jurisdiction of the court or cannot be found.

Sect. 13. The like power in the case of two or more trustees who shall have died, where it is uncertain which was the survivor.

Sect. 14. The like where it is uncertain if the last trustee be living or dead.

Sect. 15. The like where the trustee dies without an heir.

Sect. 16. The like where lands are subject to

a contingent right in unborn persons or classes of persons who, upon coming into existence, would become seised of such lands or any trust.

Sect. 20. Power for the Court of Chancery to appoint a person to convey instead of making a vesting order in many cases authorized by the act.

Sect. 28. Provision as to the effect of a vesting order in the case of copyholds.

Sect. 44. Provision in favour of purchasers as to the legal validity of vesting orders of trust estates, with saving clauses in favour of the jurisdiction of the court to revise its order and to award costs (*a*).

Trustee Ex-  
tension Act.

Sect. 2 of the Trustee Extension Act, 1852 (*b*), provides for the case of a trustee refusing or neglecting to convey after demand from a person beneficially entitled (*c*).

Extension by  
Partition Act,  
1876.

By the 3rd section of the Partition Act, 1876, the powers of the court, under the Trustee Act, 1850, are declared to extend to the interests of persons advertised for under the powers of that

---

(*a*) Vide Appendix, p. 132, where the clauses of the act are set out *in extenso*.

(*b*) 15 & 16 Vict. c. 55.

(*c*) The person appointed to convey the property may execute the deed prepared in the name of the trustee, and in that case it should be expressed in the attestation clause that he has executed in place of the other by virtue of the order of the court. *Ex parte Foley*, 8 Sim. 395.

section, and who shall not have come in and established their claims, as if they had been parties to the action.

This is an important and necessary extension of the powers of the court, for it will be observed that the 30th section of the Trustee Act only applied to persons who were parties to the suit; and although the 9th section of the Partition Act declared that persons served with the decree should be deemed parties to the suit, yet there was no provision in the case of persons who could not be found, and who were not parties.

The following may serve as an example of the application of the provisions of the Trustee Act, 1850, to cases of sale under the Partition Act. Example of application.

*Lees v. Coulton* (*d*) was a partition suit, praying a sale. The real estate in question was of great value, the persons interested very numerous, and their titles complicated under the limitations of a portion of the estate; unborn issue might become entitled; all the persons in existence were parties to the suit. The Master of the Rolls (Sir G. Jessel) considering the title proved, granted an immediate decree for sale, and declared that unborn issue coming into existence would be trustees of their respective interests, but he declined to appoint a new trustee in their place at once. An application for that purpose

---

(*d*) L. R., 20 Eq. 20.

was directed to be made after the order should have been drawn up.

Form of order. *Form of Order.*]—Declare that the several parties to this cause are trustees within the meaning of the Trustee Act, 1850, of their respective shares and interests in said lands within the meaning of the Trustee Act, 1850, and that the several interests of all unborn persons who may claim under the will of J. L., the father, in the bill named, are the interests of persons who, upon coming into existence, will be trustees within the meaning of the said act.

Unborn persons and unascertained persons.

As to the meaning of “unborn persons” in the 30th section of the Trustee Act, the Master of the Rolls decided, in the case of *Basnett v. Moxon (c)*, that those words extended to persons (such as the heir-at-law of a living person) who, although in existence, were not yet ascertained, or had not acquired the character necessary to entitle them to the estate intended to be affected. “The object was to enable the court to convey a future legal estate devolving on a person who could not be made a party to the suit.”

Effect of Trustee Act on rights of infants.

The powers of the Trustee Act have been explained in their operation upon the practice, but an important legal effect upon the rights of infants remains to be noticed.

Day to show cause abolished.

Formerly, no decree could be made against an infant without giving him a day to show cause after coming of age, and in cases of partition no

(c) L. R., 20 Eq. 182.

conveyances could be executed until after that date (*f*). Even in cases where the infant was plaintiff sometimes the same rule prevailed (*g*).

The incorporation of the Trustee Act with the Partition Acts now empowers the court, instead of giving the infant a day to show cause, to declare him a trustee of the parts allotted in severalty to the other parties, with the effect of binding his estate as if he were adult (*h*).

---

(*f*) *Brooke v. Hertford*, 2 P. Wms. 518; *Tuckfield v. Buller*, Ambler, 197.

(*g*) *Effingham v. Napier*, 2 P. Wms. 401.

(*h*) *Boicra v. Wright*. 4 De G. & Smale, 265.

## *Application of Settled Estates Act.*

---

8. APPLICATION of Proceeds of Sale.]—*Sections twenty-three to twenty-five (both inclusive) of the act of the session of the nineteenth and twentieth years of her Majesty's reign (chapter one hundred and twenty), "to facilitate Leases and Sales of Settled Estates," shall extend and apply to money to be received on any sale effected under the authority of this act.*

This provision is a necessary complement of the powers of sale conferred by the act.

Application of  
proceeds.

Sections 23 and 24 of the Settled Estates Act provide that the purchase-money received on any sale under the act should be paid to any trustees of whom the court may approve, or otherwise be paid into court, and in either case should be applied to some one or more of the following purposes:—

Redemption of  
land tax, or  
discharge of  
incumbrances.

1. The redemption of land tax or the discharge of any incumbrances affecting the hereditaments in respect of which the money was paid, or other hereditaments subject to the same uses and trusts;

Purchase of  
land.

2. The purchase of other hereditaments, to be settled in the same manner as the heredi-

taments in respect of which the money was paid; or

3. The payment to any person becoming absolutely entitled. Payment to person entitled.

Section 25 provides that, until applied for some Investment. or one of the purposes aforesaid, the purchase-money shall be invested in exchequer bills or three per cent. bank annuities, and the interest or dividends paid to the person who would have been entitled to the rents and profits of the land if the purchase-money had been invested in land (a).

The incorporation of these sections from the Settled Estates Act has the effect of creating an equity for re-conversion of the purchase-money into land, in the case of sale of the property of infants or persons under disability, by virtue of the powers of the Partition Act (*Foster v. Foster*) (b). Equity for re-conversion.

As to the securities authorized by sect. 25, there is some conflict of judicial opinion whether the category is to be held as having been enlarged by sect. 10 of 23 & 24 Vict. c. 38, and the rules thereunder, for investment in Bank Stock, East India Stock, £2 : 10s. per Cent. Annuities, mortgage of freehold and copyhold estates in England and Wales, Reduced £3 per Cent. and New £3 Proceeds of sale not cash under the control of the court.

---

(a) Vide Appendix, p. 138.

(b) L. R., 1 Ch. D. 588.

per Cent. Annuities. Vice-Chancellors Malins and Hall are of opinion that it is so enlarged. The Master of the Rolls, however, considers himself bound to the contrary opinion by a decision of Lord Selborne (c).

Payment to  
trustee.

As to the power contained in the 23rd section to order payment to trustees, it is evident that it is only intended to apply to cases where the money has to be reinvested, and that the court will exercise a discretion as to the persons to be so entrusted, and the circumstances of the case. In *Aston v. Meredith* (d), V.-C. Bacon refused to order payment to a sole surviving trustee, by him to be divided amongst the persons entitled.

Infant not a  
ward of court.

It would seem that the mere payment of an infant's money into court, under the provisions of the Settled Estates Act, will not constitute an infant a ward of court (e).

---

(c) *Re Taddy*, L. R., 16 Eq. 533; *Re Fryer*, L. R., 20 Eq. 469; *Langmead v. Cockerton*, W. N. 1877, p. 43.

(d) L. R., 13 Eq. 492; see post, p. 107.

(e) *Re Hodges*, 3 K. & J. 213; *Re Hilary*, 2 Dr. & Sm. 461.

### *Leading Cases.*

---

THE following brief account of the principal reported cases which have been brought before the court under the Partition Act, 1868, may be useful to the practitioner.

*Lys v. Lys* (a) was one of the first cases which came before the court under the Act of 1868. The bill had been filed before the act was passed, and had prayed for a partition or a sale if beneficial to the infant plaintiff in the opinion of the court. The defendant resisted a sale. The court held the operation of the Act of 1868 to be retrospective, and to apply to partition suits instituted before the passing of the acts. The Vice-Chancellor Giffard said that a sale ought not to be directed without giving the defendants an opportunity of filing affidavits for the purpose of showing that a sale would be injurious to them. The cause stood over for that purpose, and the defendants failing to satisfy the court on the occasion of its again coming on that any reason existed against a sale, the court ordered a sale under

*Lys v. Lys.*  
Retrospective  
operation of  
act.  
Under 4th  
section.

---

(a) L. R., 7 Eq. 127.

the 4th section on the request of the plaintiffs owning a moiety of the estate.

*Pryor v.  
Pryor.*

Decree for partition once made cannot be disturbed and sale ordered instead.

*Pryor v. Pryor* (b) was a case of a bill filed and decree made for partition under the old law before the Partition Act, 1868. Some of the parties desired a sale, and applied by supplemental bill for a sale. The Court of Appeal refused the application, Lord Justice James saying, "I do not think we can alter the decree. In a partition suit no doubt the court has now power to order a sale, but in this case there is a decree in existence. Every party to the suit had under the decree a right to have a commission, and I do not think this act of parliament has taken away that right."

*Lees v.  
Coulton.*

Decree for sale at hearing.

Trustee Act,  
1850.

In *Lees v. Coulton* (c), a decree for sale was made at the hearing, the title having been proved by affidavit. The Master of the Rolls said that, as the title had been proved at great expense, an immediate decree for sale would be made, and that there would be a declaration that the parties to the suit were, and that unborn issue upon coming into existence would be, trustees of their respective interests; but that as they could only be constituted trustees by the order, it seemed to him to be going too far to appoint a new trustee in their place at once, and that it would be better to make an application for that purpose after the order was drawn up.

(b) L. R., 19 Eq. 595; and on appeal, 10 Ch. App. 469.

(c) L. R., 20 Eq. 20.

The minutes were as follows :—

Declare that the several parties to this cause are trustees within the meaning of the Trustee Act, 1850, of their respective shares and interests in the several estates hereby directed to be sold; and that the interest in such several estates of all unborn persons who might claim under the will of J. L., in the bill named, are the interests of persons who, upon coming into existence, will be trustees within the meaning of the said act.

In *Roebuck v. Chadebet* (d), the bill was for partition, and counsel at the hearing asked for a sale of a part, and a partition of the remainder of the estate. Counsel observed that two bills might have been filed, one praying for partition of the part of the property sought to be partitioned, and the other praying for a sale of the part sought to be sold, and in that case the court would have jurisdiction to make decrees according to the prayers of the two bills; and that being so, he submitted the same thing ought to be done on one bill. There was no opposition, and the Master of the Rolls made the decree, as asked, in the following form :—

*Roebuck v. Chadebet.*  
Partition of part, sale of the rest.  
Under 3rd section.  
Title of parties proved.  
Trustee Act, 1850.

Declare that each of the plaintiffs is entitled to a sixth, &c. And the plaintiffs and the defendant E. C., by their counsel respectively, desiring that a partition should be made of such parts only of the said hereditaments as are comprised in the first schedule to the affidavit of J. L., and that the hereditaments comprised in the second and third schedules to the said affidavit,

being the remaining parts of the said copyhold hereditaments, should be sold; and the court being of opinion that a sale of the said hereditaments comprised in the said second and third schedules, and a distribution of the proceeds, will be more beneficial to the infant defendant than a partition of the said premises: Let a partition of the hereditaments comprised in the said first schedule be made by the judge in chambers. Directions for allotment of the respective sixths. Let the plaintiffs and defendants respectively hold and enjoy their respective shares in severalty, according to such allotments. Declare that the infant defendant B. is a trustee within the meaning of the Trustee Act, 1850. Appoint J. B. to surrender and assure, &c. Mutual surrenders and assurances to be executed. Let the hereditaments comprised in the second and third schedules be sold with the approbation of the judge, and the money to arise by sale paid into court to the credit of the cause. Declare, that upon such payment the infant defendant will be a trustee of her undivided sixth of the hereditaments comprised in the said second and third schedules, within the meaning of the Trustee Act, 1850. Let J. B. be appointed to surrender and assure the same on her behalf. Liberty to apply in chambers for payment of costs of suit out of proceeds of sale, and for distribution of said proceeds, and generally (*e*).

*Mildmay v.*  
*Quicke.*  
Order for sale  
at hearing.  
Parties.

In *Mildmay v. Quicke* (*f*), the plaintiff asked for a decree at the hearing, directing an inquiry as to what parties were entitled to or interested in the property; and if it should be certified that all the parties entitled to or interested in the pro-

---

(*e*) Vide Pemberton on Judgments, 2nd ed. 566.

(*f*) L. R., 20 Eq. 537.

party were parties to the suit, or had been served with notice of the decree, then for a sale according to the form in *Harper v. Bird* (g) (*Powell v. Powell* quoted). The Master of the Rolls said: "That if all parties interested were parties to the cause, a decree for sale might be made at the hearing; but if they were not all parties, then the 9th section of the Partition Act, 1868, applied, and a sale could only be ordered on further consideration. It might be that these words were not used in their strict technical sense; but before a sale could be ordered, there must be further consideration of some sort or other, and the utmost that could be done in such a case would be to give liberty to apply at chambers, with reference to a sale, in the event of its being certified that all parties interested have been parties to the cause, or had been served with notice of the decree."

In *Wilkinson v. Joberns* (h), Lord Selborne, Lord Chancellor (sitting for the Master of the Rolls), after directing a sale under section 4 of the Partition Act, 1868, in opposition to the desire of the owner of a moiety of the estate, who was also a tenant of the whole, granted the defendant leave to bid, and directed that in the event of his becoming the purchaser he should

*Wilkinson v.  
Joberns.*  
Leave to bid.

---

(g) Before Vice-Chancellor Hall, 17th April, 1875.

(h) L. R., 16 Eq. 14.

pay into court one moiety only of the purchase-money.

*Powell v.  
Powell.*

Practice.

Sale had before  
certificate of  
chief clerk.

In *Powell v. Powell* (i), the court discharged a purchaser under a decree for sale in a partition suit, because the sale had taken place before the chief clerk had made his certificate. The decree had directed three classes of inquiries, viz., 1, as to persons entitled and their several interests, and whether they were parties or had been served; 2, as to parties out of the jurisdiction; 3, as to the expediency of sale under the 3rd section of the act.

The chief clerk directed a sale of a portion of the property by anticipation before he had made his certificate. The purchaser objected to the title, alleging that the defect was not cured by a subsequent certificate. Lord Chancellor Cairns remarked: "There are two matters in which the mind of the judge is to be exercised, first, who are the parties interested; and secondly (a question which cannot be properly determined till they are present), whether a sale will be more beneficial to them than a partition. Here a sale was directed in chambers before the judge had his mind brought to these questions. In reply to this it is urged that a certificate has since been made finding that the proper parties are before the court and that a sale is beneficial; but surely

---

(i) L. R., 10 Ch. App. 130.

it is not a proper course of proceeding for a sale to be made before the judge has found who are the parties interested, and that a sale is beneficial to them, and for this irregular order to be afterwards confirmed, when the materials without which it ought not to have been made have been obtained."

In another part of the same case, the Lord Chancellor put a construction on the words "further consideration" as used in the 9th section of the Partition Act, 1868. He said: "I do not think that it was the intention of the legislature, in using in the 9th section the words 'on further consideration,' to tie up the court so as to preclude its ordering a sale otherwise than when the cause comes on for further consideration in court. I should take the words in a popular sense, as referring to any consideration the cause receives after the inquiries have been made."

Meaning of the expression further consideration in act.

In *Grove v. Comyn* (k), a provisional agreement for sale, made by the plaintiff before the hearing, was sanctioned by the court and directed to be confirmed and carried into effect. The minutes were as follows:—

*Grove v. Comyn.*  
Request for sale by infant.

"Declare that the piece of ground at N. in the bill mentioned is divisible between the plaintiff and defendant in equal moieties (subject to town, &c.), and it appearing to the court that by reason of the nature of the property a sale of the said property and a distribu-

tion of the proceeds of the sale will be more beneficial to the parties interested than a division thereof between or amongst them, and the infant plaintiff requesting that the said hereditaments may be sold; and the court being of opinion that the conditional agreement, dated, &c., in this bill mentioned, is a proper agreement for carrying such sale into effect, doth order that the said conditional agreement entered into between, &c., for the sale of the said piece of ground, situate, &c., at the price of 1,100*l.*, be carried into effect. And it is ordered that the money to arise by such sale be paid into court to the credit of this cause, and any party to be at liberty to apply in chambers as they might be advised."

It will be observed that the court here acted on the request of an infant before the Act of 1876, but there was no opposition, and the question as to sufficiency of title would still remain open to a purchaser.

*Halfhide v.*  
*Robinson.*

Person of un-  
sound mind  
cannot sue by  
next friend.

In *Halfhide v. Robinson* (*l*), where a bill had been filed for partition of real estate on behalf of a person of unsound mind, the court objected that there was no authority for such a suit. Lord Justice James observed: "I think that this suit <sup>\*</sup>is altogether irregular. Such a bill ought not to have been filed by a next friend on behalf of a person of unsound mind not so found by inquisition. It is said that it is a mere matter of form, for that if the parties were transposed and the person of unsound mind made a defendant, there

---

(*l*) L. R., 9 Ch. App. 373.

must have been a decree for sale just the same as has now been made. But in that case the plaintiff would have taken the risk of the costs of the suit. However, we can apply our powers under the Lunacy Regulation Act (*m*) to the case. We shall be exercising our power of selling the lunatic's property on terms which we think beneficial to the lunatic, but not under this suit nor adopting the proceedings under it in any way. A petition must be presented under the Lunacy Regulation Act, or, if the petitioners prefer it, they may amend their petition and make it under that act, and they must state what is the total value of the lunatic's property. The matter will be dealt with in lunacy, and we must be informed of the exact sum which will come to the lunatic under the sale after providing for the costs which her share will have to bear, and we shall be able to concur with the other parties in carrying out the sale. I wish it to be understood that a bill cannot be filed by a next friend on behalf of a person of unsound mind not so found by inquisition for dealing with his real estate. The consequences of such a course might be monstrous."

Since this decision the 6th section of the Partition Act, 1876, has given power to the court to act on a "*request*" for sale under it, made on behalf of a person of unsound mind; but the act

---

(*m*) 25 & 26 Vict. c. 86, ss. 12, 13; applicable to cases where property does not amount to 1,000*l*.

does not in terms authorize an action to be commenced on his behalf by a next friend; therefore it is presumed, that the foregoing observations of Lord Justice James will still apply to future cases.

*Hurry v.*

*Hurry.*

Absent party.

Under 4th section.

In *Hurry v. Hurry* (*n*) the court refused to order a sale in the absence of a party (although owning a very small share) who had not been served. The chief clerk had certified that one of the defendants was out of the jurisdiction. It was believed he was in Australia; no attempt had been made to serve him. His share was one-ninth of one-fifth only, and it was submitted that, as all parties present asked for a sale, the court could proceed in his absence under the 4th section. The Vice-Chancellor, however, considered that he could not order a sale in the absence of the defendant in question, and ordered the cause to stand over.

*Peters v.*

*Bacon.*

Absent parties.

Under 3rd section.

In *Peters v. Bacon* (*o*), forty persons resident in England were interested, besides a family of children resident abroad. The property consisted of three leasehold houses. A bill was filed by nine of the persons interested resident in this country against six others also resident in this country. The Master of the Rolls made a decree, dated Jan. 30, 1869, whereby, after reciting that

---

(*n*) L. R., 10 Eq. 346.

(*o*) L. R., 8 Eq. 125.

his lordship was of opinion that, having regard to the number of persons interested in the houses, a sale of the same and a distribution of the proceeds would be more beneficial than a partition among them, and the plaintiffs requested that the premises should be sold, his lordship ordered a sale with the usual directions.

The plaintiffs afterwards took out a summons in chambers for the purpose of obtaining an order that notice of the decree and of the order to be made on the summons by advertisement in certain papers might be deemed good service on the children resident abroad (in California), or that direction might be given for service of the decree, and that the sale might be proceeded with pending such service. Lord Romilly, M. R., said: "I cannot allow you to proceed in the absence of these parties, but I can give you leave to give them notice of the decree by advertisement, and after the advertisements have appeared, if they do not come in, you may have liberty to apply as to proceeding with the sale. It had better go to chambers for the chief clerk to settle the advertisement and the papers, and the number of times they are to appear."

Now, the new powers given by the Act of 1876 will apply to a case of this nature (*o*).

It has been already stated that a tenant in.

---

(*o*) Vide ante, pp. 79—81.

reversion or remainder of an undivided share cannot sue for a partition.

*Evans v. Bagshaw.*  
Reversioner not entitled to maintain a suit for partition.

In *Evans v. Bagshaw* (*p*) it was held, that a plaintiff, being a reversioner, could not maintain a suit by reason of his having acquired an estate in possession since the filing of his bill. He had amended his bill by stating the new acquisition, but the Master of the Rolls dismissed the bill with costs, observing that as the plaintiff had no power to institute the suit, he could not, by afterwards acquiring an interest in possession, set up a title which he had not originally.

This decision was upheld on appeal, Lord Hatherley observing: "The case falls within the ordinary rule that the court will not allow a partition suit to be maintained by a reversioner. This rule is not merely technical, but is founded on good sense in not allowing the reversioner to disturb the existing state of things. There might be a tenant for life of the whole and several tenants in common in reversion, in which case the inconvenience would obviously be very great. At all events the rule is unquestionably settled." Lord Justice Giffard: "The plaintiff should have dismissed his bill and filed a new one." Appeal dismissed, with costs.

We have seen (*q*) that an action for partition

---

(*p*) L. R., 8 Eq. 469; and 5 Ch. App. 340.

(*q*) Ante, p. 12.

cannot, without leave of the court, be joined with an action for the recovery of land, or, in other words, that a disputed title cannot be tried in a partition suit.

In *Slade v. Barlow* (*r*), the plaintiff claiming to be equally entitled to an undivided share in a freehold estate, filed a bill for partition, raising a question of construction of a will, whether the estate had passed under a specific or residuary devise. It was objected at the hearing, that that was an ejectment bill. The Vice-Chancellor James said, that it appeared to him to be an attempt, under colour of a partition suit, to get a construction of a will against a defendant in possession of the property. Seeing that the real object of the suit was to recover the possession of land under a legal title, it would be straining the (John Rolt's) Act very far to say that these questions could be determined by the Court of Chancery.

*Slade v. Barlow.*

Ejectment can not be joined with partition without leave of court.

Bill retained for a year.

The suit for a partition is based on the assumption that there is no litigation. Following *Bolton v. Bolton*, the Vice-Chancellor directed the bill to be retained for a year, with liberty to the plaintiffs to bring such action at law as they might be advised.

*Giffard v. Williams* (*s*) was a similar case. The

*Giffard v. Williams.*

---

(*r*) L. R., 7 Eq. 296.

(*s*) L. R., 8 Eq. 494; on appeal, 5 Ch. App. 546.

Vice-Chancellor Stuart had made an order declaring the legal title of the plaintiffs against the defendants, and decreeing a partition upon appeal. Lord Hatherley, L. C. (reversing the judgment of the Vice-Chancellor), said: "It would not be proper for this court, under colour of making a decree for partition, in fact to decide the legal right to this land."

"The order would be to retain the bill for a year, with liberty to the plaintiffs to bring such actions as they might be advised."

*Burt v.  
Hellyar.*  
Construction  
of will in  
partition suit  
by consent.

*Burt v. Hellyar* (t) was a case before Vice-Chancellor Wickens, where the plaintiffs brought a suit for a partition against a defendant in possession who claimed the whole estate. The question to be argued was one on the construction of a will, whether the plaintiffs and defendant were entitled in severalty, or whether the defendant was solely entitled to the estate. The Vice-Chancellor decided in favour of the plaintiffs, and decreed a partition, saying: "I may observe that the question I have decided is one of law and not of equity, and that a partition suit being an exercise by the court of administrative rather than contentious jurisdiction, it might not have been right that I should have dealt with it if anyone objected. But no one did object, in fact, and I think that under the circumstances I did not go beyond the limits of my proper jurisdic-

---

(t) L. R., 14 Eq. 160.

tion, and that I do what is best for the parties by now deciding the case. It will be proper, however, to preface the decree with a statement of the desire of all parties, other than the infant, that the questions should be decided here and now."

In *Aston v. Meredith* (*u*), at the hearing on first further consideration, a sale was directed.

*Aston v. Meredith.*  
Payment to trustee under Settled Estates Act refused.

The property having been sold and the purchase-money paid into court, the cause came on for hearing on second further consideration. The property was divisible into thirteenths, and infants and married women were entitled. The plaintiff asked that the fund in court, which amounted to 12,500*L.*, with the exception of the infant's share, might, under sect. 23 of the Leases and Sales of Settled Estates Act, be paid unto the plaintiff the surviving trustee, to be paid by him to the persons entitled, to avoid the delay or expense of powers of attorney from Australia. The Vice-Chancellor, however, refused the application, and ordered the fund to be paid out to the persons entitled in the usual manner.

In *Bailey v. Hobson* (*x*), where a decree for sale had been made in a partition suit, the court refused to grant an injunction to restrain the defendant, an owner of one-sixth, who happened

*Bailey v. Hobson.*  
Injunction against occupying tenant refused.

(*u*) L. R., 13 Eq. 492.

(*x*) L. R., 5 Ch. App. 180.

to be in possession of the estate (without a lease from his co-owners), from selling and removing hay and turnips off the land.

Vice-Chancellor Stuart had granted the injunction prayed for, on the ground that the act was an interference with the process of the court; but Lord Justice Giffard reversed his decision, on the ground that there was no waste or destruction of the property, and as there was no tenancy the selling of the hay and turnips was what the defendant as a tenant in common had a perfect right to do, and was no tort.

## Costs.

---

10. COSTS in Partition Suits.]—*In a suit for partition, the court may make such order as it thinks just respecting costs up to the time of the hearing.*

This enactment was made in consequence of Old rule. the previously existing rule, as to the incidence of costs in partition suits, which frequently occasioned hardship.

The earliest case in the books is that of *Parker v. Gerard* (a), where a case of *Nevis v. Levine* is quoted for the proposition, that the costs of a particular suit must be borne equally by a plaintiff and defendant. The plaintiff, in the latter case, was entitled to 300 or 400 acres, and the defendant to four or five only; and the defendant would rather have given up his part than be at the expense of a partition, yet it was decreed, and to be at the equal expense of both parties. In each of these cases it is, however, to be observed, there was but one plaintiff and one defendant.

In *Calmady v. Calmady* (b), the bill was filed *Calmady v. Calmady.*

---

(a) Ambler, 236.

(b) 2 Ves. jun. 568.

Costs of commission borne by the estate.

for a commission to make partition of an estate, in which the plaintiffs claiming under the trusts of the marriage settlement of Admiral Calmady were interested as to two-thirds, and the defendant, an infant, was entitled to one-third. In order to show in what proportions the parties were entitled, it was necessary to investigate and make out the title, to show that incumbrances had been discharged, and to make a survey and valuation of the estate. In the course of these proceedings bills of revivor and supplement were filed, and a considerable expense incurred. The decree directed the commission to issue; but a question arose as to the costs, upon which a motion was made on each side to vary the minutes: the object of that for the plaintiffs was, that the costs of all the proceedings should be defrayed by the parties in moieties. The defendant insisted that the court should give no direction as to the costs; but if any costs ought to be given, they ought to be the costs of executing the commission only, and in proportion to the interests in the estate. Cases were cited on both sides showing considerable diversity of practice, the Lord Chancellor (Lord Hardwicke) said:—"This was not much discussed when it was formerly before me, but a very little time before it came on there was another cause, in which costs were asked upon a partition, which led me to consider it. I

found, not all the cases that have been now cited, but a good many authorities, in which, of late, the costs of the commission had been given. I was led to consider whence that variation of the practice had taken place, and I approved of the latter practice; for all the arguments against are, in truth, arguments against the jurisdiction of the court upon a bill for partition. A party choosing to have a partition has the law open to him; there is no equity for it, but the jurisdiction of the court obtained a principle upon convenience. Then the only question is, whether the legal mode of proceeding is so convenient as the means this court affords to settle the interests between them with perfect fairness and equality. It is evident the commission is much more convenient than the writ—the valuations of the proportions is much more considered, the interests of all the parties are much better attended to, and it is a work carried on for the common benefit of both; therefore it is just that both should pay, but not equally; their interests in the common fund must give the rule. They receive benefit exactly in proportion to the interests they have. But I do not find that, in any case, the court goes farther than in directing the costs of issuing and executing the commission; and there being no costs at all at law, as far as regards the suit here, the court will leave them to sustain such costs as

their interests in that suit necessarily put them to. The idea has been to make them pay as far as they have interest. It has been carried, upon sufficient ground I think, to the costs of executing the commission, and not beyond that.

*Agar v. Fairfax.*

In *Agar v. Fairfax* (c), Lord Chancellor Eldon followed the rule adopted in *Calmady v. Calmady* of giving no costs prior to the issue of the commission. The chancellor gave as a reason that he thought it just that each of the parties should bear the expense of making out his own title, but that the costs of issuing, executing and confirming the commission should be borne by the parties in proportion to the value of their respective interests, and there should be no costs of the subsequent proceedings.

Act of 1868.

In this state the law remained to the time of the passing of the Act of 1868; and it is easy to perceive how unequally the rule might work in many cases.

Lord Romilly, Master of the Rolls, at first thought that the new act had not effected any change in the old rule as to the incidence of costs; but he subsequently changed his opinion, and the usual practice now is to pay the costs out of the estate, so as to make the parties bear them rateably. It is now admitted that

---

(c) 17 Ves. jun. 542, 557.

there is absolute discretion in the judge to deal with the question of costs as may be just.

In *Landell v. Baker* (d), Lord Romilly said : *Landell v. Baker.*  
 “ I do not think the act was intended to alter the practice of the court with respect to costs, and each party must therefore bear his own costs up to the hearing.”

But in *Simpson v. Ritchie* (e), Lord Selborne *Simpson v. Ritchie.*  
 observed : “ Having regard to the 10th section of the act, it cannot be said that the court is bound by the old rule as to the costs of partition suits. It is impossible to lay down a general rule on the subject, and there may be cases in which the court, in the exercise of its discretion, will follow the old practice ; but in this case I think the costs ought to be paid out of the estate.”

In this case the plaintiffs were owners of a moiety of the estate, and the other moiety belonged to two separate owners.

The plaintiff, in exercise of the option given by the 9th section, had only made one of the co-owners a defendant by his bill, and on the hearing a decree had been made directing inquiries who were the parties interested. Those inquiries having been answered, the cause came on upon further consideration, the other co-owners having been served with notice of the proceedings. He

---

(d) 6 Eq. 268.

(e) 16 Eq. 103.

suggested that no costs should be given to any party up to the hearing, but the other parties pointed out that if that were done, he would be put in a better position than the owner who had been selected as a defendant; thereupon Lord Selborne, Chancellor (sitting for the Master of the Rolls), decided as above stated.

*Osborne v.  
Osborne.*

In *Osborne v. Osborne* (*f*), Vice-Chancellor Malins declared that the costs of all parties of the suit were to be a lien on the proceeds of the sale.

*Miller v.  
Marriott.*

In *Miller v. Marriott* (*g*), Lord Romilly, notwithstanding his decision in *Landells v. Baker*, followed the Vice-Chancellor's decision in the last case, observing, "The plaintiff has one-fourth of the property, the defendants have the other three-fourths, and they get all the advantage of the plaintiff's bill and of the costs he has incurred, which are usually the greatest. The Vice-Chancellor Malins thought that under these circumstances the costs of all parties ought to come out of the estate, and I am disposed to follow him."

*Cannell v.  
Johnson.*  
The entire  
costs to be  
apportioned.

Again, in *Cannell v. Johnson* (*h*), Lord Romilly stated, "I am satisfied that, according to the practice, which I have followed on several previous occasions, the entire costs of a partition suit

---

(*f*) 6 Eq. 338.

(*g*) 7 Eq. 1.

(*h*) 11 Eq. 11.

should be borne by the parties in proportion to their interests as declared by the decree, except where there are any special circumstances arising from the conduct of any of the parties which may lead the court to apportion the costs otherwise. In this case the plaintiff must pay one-fifth, and the defendant four-fifths, of the entire costs of the suit."

The rule stated in the last quoted case has since been followed, and may now be considered the settled practice of the court.

Where one of the defendants in a partition suit had leased his undivided share for 99 years, the costs of suit of the lessee, who was a necessary party to the proceedings, were ordered to be paid by his lessor (*i*). Costs of lessee of undivided share.

If this principle is to be observed, the rule would extend to incumbrancers and parties interested under settlements of undivided shares. Incumbrancers, &c.

The court has unfettered discretion conferred upon it by the statute in respect to the incidence of costs.

---

(*i*) *Cornish v. Guest*, 2 Cox, 27.



## APPENDIX.

---

31 HEN. 8, C. 1. A.D. 1539.

*For Joint Tenants and Tenants in Common.*

FORASMUCH as by the common laws of this realm divers of the king's subjects, being seised of manors, lands, tenements and hereditaments as joint tenants or as tenants in common with other of any estate of inheritance in their own rights or in the right of their wives, by purchase, descent or otherwise, and every of them so being joint tenants or tenants in common have like right, title, interest and possession in the same manors, lands, tenements and hereditaments for their parts or portions jointly or in common undividedly together with other, none of them by the law doth or may know their several parts or portions in the same, or that that is his or theirs, by itself undivided, and cannot by the laws of this realm otherwise occupy or take the profits of the same, or make any severance, division or partition thereof, without either of their mutual assents and consents, by reason whereof divers and many of them, being so jointly and undividedly seised of the said manors, lands, tenements and hereditaments, oftentimes of their perverse, covetous and malicious minds and wills against all right, justice, equity and good conscience, by strength and power not only cut and fallen down all the woods and trees growing upon the same, but also have extirped, subverted, pulled down and destroyed all the houses, edifices and buildings, meadows, pastures, commons and the whole commodities of the same, and have taken and converted them to their own uses and behoofs, to the open wrong and disherison

Several inconveniences ensuing by holding lands jointly or in common, being undivided.

and against the minds and wills of other holding the same manors, lands, tenements and hereditaments jointly or in common with them, and they have been always without assured remedy for the same :

Joint tenants and tenants in common are compellable to make partition by writ extended to joint tenants, &c., for life or years, by 32 Hen. 8, c. 32.

2. Be it therefore enacted by the king our most dread sovereign lord, and by the assent of the lords spiritual and temporal, and by the commons, in this present parliament assembled, that all joint tenants and tenants in common that now be, or hereafter shall be, of any estate or estates of inheritance in their own rights or in the right of their wives, of any manors, lands, tenements or hereditaments within this realm of England, Wales, or the marches of the same, shall and may be coacted and compelled, by virtue of this present act, to make partition between them of all such manors, lands, tenements and hereditaments as they now hold or hereafter shall hold as joint tenants or tenants in common by writ *de participatione faciendâ*, in that case to be devised in the king our sovereign lord's Court of Chancery, in like manner and form as coparceners by the common laws of this realm have been and are compelled to do, and the same writ to be pursued at the common law :

Every of the joint tenants and tenants in common shall have aid of the other.

3. Provided alway, and be it enacted, that every of the said joint tenants or tenants in common and their heirs, after such partition made, shall and may have aid of the other, or of their heirs, to the intent to dereign the warranty paramount and to recover for the rate as is used between coparceners after partition made by the order of the common law, any thing in this act contained to the contrary notwithstanding.



32 HEN. 8, c. 32. A.D. 1540.

*Joint Tenants for Term of Life or Years.*

Forasmuch as in the parliament begun at Westminster the twenty-eighth day of April and there continued till the twenty-eighth day of June, the thirty-first year of the king's most noble and victorious reign that now is, it was amongst other things there enacted and established, that all joint tenants and tenants in common that then were, or hereafter should be, of any estate or estates of inheritance in their own rights or in the right of their wives, of any manors, lands, tenements or hereditaments within this realm of England, Wales or marches of the same, shall and may be coacted and compelled by virtue of the said act to make partition between them of such manors, lands, tenements and hereditaments as they then held or hereafter should hold as joint tenants or tenants in common, as more at large appeareth by the said statute; and forasmuch as the said statute doth not extend to joint tenants and tenants in common for term of life or years, neither to joint tenants or tenants in common where one or some of them have but a particular estate for term of life or years, and the other have estate or estates of inheritance of and in any manors, lands, tenements and hereditaments:

Be it therefore enacted by the king our sovereign lord, and by the assent of the lords spiritual and temporal, and the commons, in this present parliament assembled, and by the authority of the same, that all joint tenants and tenants in common and every of them which now hold or hereafter shall hold jointly or in common for term of life, year or years, or joint tenants or tenants in common where one or some of them have or shall have estate or estates for term of life or years, with the other that have or shall have estate or estates of inheritance or freehold in any manors, lands, tenements or hereditaments, shall and may be compellable from henceforth by writ of partition, to be pursued out of the

31 Hen. 8, c. 1.  
Joint tenants  
and tenants in  
common for  
lives or years  
shall make  
partition.

Joint tenants  
for life or  
years are com-  
pellable to  
make partition.

king's Court of Chancery upon his or their case or cases, to make severance and partition of all such manors, lands, tenements and hereditaments which they hold jointly or in common for term of life or lives, year or years, where one or some of them hold jointly or in common for term of life or years with other, or that have an estate or estates of inheritance of freehold:

Partition to be  
prejudicial to  
none but  
parties.

Provided alway, and be it enacted, that no such partition or severance hereafter to be made by force of this act, be, nor shall be, prejudicial or hurtful to any person or persons, their heirs or successors, other than such which be parties unto the said partition, their executors or assigns.

---

4 ANNE, c. 16; 4 & 5 ANNE, c. 3. A.D. 1705.

*An Act for the Amendment of the Law, and the better  
Advancement of Justice.*

Proviso for  
actions of  
account by and  
between joint  
tenants, as  
bailiffs, &c.

Sect. 27. And be it enacted by the authority aforesaid, that from and after the said first day of Trinity Term, actions of account shall and may be brought and maintained against the executors and administrators of every guardian, bailiff and receiver, and also by one joint tenant and tenant in common, his executors and administrators, against the other as bailiff for receiving more than comes to his just share or proportion, and against the executor and administrator of such joint tenant or tenant in common. And the auditors appointed by the court, where such action shall be depending, shall be and are hereby empowered to administer an oath and examine the parties touching the matters in question, and for their pains and trouble in auditing and taking such account, have such allowance as the court shall adjudge to be reasonable, to be paid by the party on whose side the balance of the account shall appear to be.

---

## 7 ANNE, c. 18. A.D. 1708.

*An Act to preserve the Rights of Patrons to Advowsons.*

Forasmuch as the pleading in a *quare impedit* is found very difficult, whereby many patrons are either defeated of their right of presentation, or put to great charge and trouble to recover their right which is occasioned by the law as it now is: For remedy whereof, Be it enacted by the queen's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in parliament assembled, and by the authority of the same, that no usurpation upon any avoidance in any church, vicarage or other ecclesiastical promotion shall displace the estate or interest of any person entitled to the advowson or patronage thereof, or turn it to a right, but he or she that would have had a right if no usurpation had been, may present or maintain his or her *quare impedit* upon the next or any other avoidance, if disturbed, notwithstanding such usurpation; and if coparceners or joint tenants, or tenants in common, be seised of any estate of inheritance in the advowson of any church or vicarage or other ecclesiastical promotion, and a partition is or shall be made between them to present by turns, that thereupon every one shall be taken and adjudged to be seised of his or her separate part of the advowson to present in his or her turn; as if there be two, and they make such partition, each shall be said to be seised, the one of the one moiety to present in the first turn, and the other of the other moiety to present in the second turn; in like manner if there be three, four or more, every one shall be said to be seised of his or her part, and to present in his or her turn.

No usurpation shall displace the estate of the patron, but he may maintain a *quare impedit*. If coparceners, &c. be seised of an advowson, &c., and a partition is made to present by turns, each shall be seised of a separate estate to present accordingly.

4 & 5 VICT. c. 35. A.D. 1841.

*An Act for the Commutation of certain Manorial Rights in Lands of Copyhold or Customary Tenure, &c.*

Courts of equity may decree a partition of lands of copyhold or customary tenure.

Sect. 85. And whereas it is expedient that facilities should be afforded by courts of equity to parties desirous of obtaining a partition of their lands of copyhold or customary tenure, but doubts are entertained whether by the practice of such courts the same can now be obtained: Be it enacted and declared, that from and after the passing of this act, it shall be lawful for any court of equity in any suit to be thereafter instituted therein for the partition of lands of copyhold or customary tenure, to make the like decree for ascertaining the rights of the respective parties to the suit in such lands, and for the issue of a commission for the partition of the same lands, and the allotment in severalty of the respective shares therein, as according to the practice of such court may now be made with respect to lands of freehold tenure.



THE TRUSTEE ACT, 1850.

13 & 14 VICT. c. 60.

*An Act to consolidate and amend the Laws relating to the Conveyance and Transfer of Real and Personal Property vested in Mortgagees and Trustees.*

Interpretation of terms.

2. And whereas it is expedient to define the meaning in which certain words are hereafter used: It is declared that the several words hereinafter named are herein used and applied in the manner following respectively; (that is to say,)

The word "lands" shall extend to and include manors, messuages, tenements and hereditaments, corporeal and incorporeal, of every tenure or description, whatever may be the estate or interest therein:

The word "stock" shall mean any fund, annuity or security transferable in books kept by any company or society established or to be established, or transferable by deed alone, or by deed accompanied by other formalities, and any share or interest therein :

The word "seised" shall be applicable to any vested estate for life or of a greater description, and shall extend to estates at law and in equity, in possession or in futurity, in any lands :

The word "possessed" shall be applicable to any vested estate less than a life estate, at law or in equity, in possession or in expectancy, in any lands :

The words "contingent right," as applied to lands, shall mean a contingent or executory interest, a possibility coupled with an interest, whether the object of the gift or limitation of such interest or possibility be or be not ascertained, also a right of entry, whether immediate or future, and whether vested or contingent :

The words "convey" and "conveyance," applied to any person, shall mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another lands whereof such person is seised or entitled to a contingent right, either for the whole estate of the person conveying or disposing, or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance, including the acts to be performed by married women and tenants in tail in accordance with the provisions of an act passed in the fourth year of the reign of his late majesty King William the Fourth, intituled "An Act for the Abolition of Fines and Recoveries, and the substitution of more simple Modes of Assurance," and including also surrenders and other acts which a tenant of customary or copyhold lands can himself perform preparatory to or in aid of a complete assurance of such customary or copyhold lands :

3 & 4 Will. 4,  
c. 74.

The words "assign" and "assignment" shall mean the execution and performance by a person of every necessary or suitable deed or act for assigning, surrendering, or otherwise transferring lands of which such person is possessed, either for the whole estate of the person so possessed or for any less estate :

The word "transfer" shall mean the execution and performance of every deed and act by which a person entitled to stock can transfer such stock from himself to another :

The words "lord chancellor" shall mean as well the lord chancellor of Great Britain as any lord keeper or lords commissioners of the great seal for the time being :

The words "lord chancellor of Ireland" shall mean as well the lord chancellor of Ireland as any keeper or lords commissioners of the great seal of Ireland for the time being :

The word "trust" shall not mean the duties incident to an estate conveyed by way of mortgage ; but, with this exception, the words "trust" and "trustee" shall extend to and include implied and constructive trusts, and shall extend to and include cases where the trustee has some beneficial estate or interest in the subject of the trust, and shall extend to and include the duties incident to the office of personal representative of a deceased person :

The word "lunatic" shall mean any person who shall have been found to be a lunatic upon a commission of inquiry in the nature of a writ *de lunatico inquirendo*.

The expression "person of unsound mind" shall mean any person, not an infant, who, not having been found to be a lunatic, shall be incapable from infirmity of mind to manage his own affairs :

The word "devisee" shall, in addition to its ordinary signification, mean the heir of a devisee and the devisee of an heir, and generally any person claiming an

interest in the lands of a deceased person, not as heir of such deceased person, but by a title dependent solely upon the operation of the laws concerning devise and descent :

The word "mortgage" shall be applicable to every estate, interest, or property in lands or personal estate which would in a court of equity be deemed merely a security for money :

The word "person" used and referred to in the masculine gender shall include a female as well as a male, and shall include a body corporate :

And generally, unless the contrary shall appear from the context, every word importing the singular number only shall extend to several persons or things, and every word importing the plural number shall apply to one person or thing, and every word importing the masculine gender only shall extend to a female.

3. And be it enacted, that when any lunatic or person of unsound mind shall be seised or possessed of any lands upon any trust or by way of mortgage, it shall be lawful for the lord chancellor, intrusted by virtue of the queen's sign manual with the care of the persons and estates of lunatics, to make an order that such lands be vested in such person or persons in such manner and for such estate as he shall direct ; and the order shall have the same effect as if the trustee or mortgagee had been sane, and had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

Lord chancellor may convey estates of lunatic trustees and mortgagees ; \*

4. And be it enacted, that when any lunatic or person of unsound mind shall be entitled to any contingent right in any lands upon any trust or by way of mortgage, it shall be lawful for the lord chancellor, intrusted as aforesaid, to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said lord chancellor shall direct ; and the order shall have the same effect as if the trustee or mort-

may convey contingent rights.

gagee had been sane, and had duly executed a deed so releasing or disposing of the contingent right.

Court of Chancery may convey estates of infant trustees and mortgagees.

7. And be it enacted, that where any infant shall be seised or possessed of any lands upon any trust or by way of mortgage, it shall be lawful for the Court of Chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the infant trustee or mortgagee had been twenty-one years of age, and had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

Contingent rights of infant trustees and mortgagees.

8. And be it enacted, that where any infant shall be entitled to any contingent right in any lands upon any trust, or by way of mortgage, it shall be lawful for the Court of Chancery to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said court shall direct; and the order shall have the same effect as if the infant had been twenty-one years of age, and had duly executed a deed so releasing or disposing of the contingent right.

Court of Chancery may convey the estate of a trustee out of the jurisdiction of the court.

9. And be it enacted, that when any person solely seised or possessed of any lands upon any trust shall be out of the jurisdiction of the Court of Chancery, or cannot be found, it shall be lawful for the said court to make an order vesting such lands in such person or persons in such manner, and for such estate as the said court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands in the same manner and for the same estate.

Court may make order in cases where persons are seised of lands jointly with parties out of jurisdiction of court, &c.

10. And be it enacted, that when any person or persons shall be seised or possessed of any lands jointly with a person out of the jurisdiction of the Court of Chancery, or who cannot be found, it shall be lawful for the said court to make an order vesting the lands in the person or persons so jointly seised or possessed, or in such last-mentioned person or persons together with any other person or persons, in such

manner, and for such estate as the said court shall direct; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

11. And be it enacted, that when any person solely entitled to a contingent right in any lands upon any trust, shall be out of the jurisdiction of the Court of Chancery, or cannot be found, it shall be lawful for the said court to make an order wholly releasing such lands from such contingent right, or disposing of the same to such person or persons as the said court shall direct; and the order shall have the same effect as if the trustee had duly executed a conveyance so releasing or disposing of the contingent right.

Contingent rights of trustees.

12. And be it enacted, that when any person jointly entitled with any other person or persons to a contingent right in any lands upon any trust shall be out of the jurisdiction of the Court of Chancery, or cannot be found, it shall be lawful for the said court to make an order disposing of the contingent right of the person out of the jurisdiction, or who cannot be found, to the person or persons so jointly entitled as aforesaid, or to such last-mentioned person or persons together with any other person or persons; and the order shall have the same effect as if the trustee out of the jurisdiction, or who cannot be found, had duly executed a conveyance so releasing or disposing of the contingent right.

Court may make order in cases where persons are jointly entitled with others out of the jurisdiction of the court to a contingent right in lands.

13. And be it enacted, that where there shall have been two or more persons jointly seised or possessed of any lands upon any trust, and it shall be uncertain which of such trustees was the survivor, it shall be lawful for the Court of Chancery to make an order, vesting such lands in such person or persons, in such manner, and for such estate, as the said court shall direct; and the order shall have the same effect as if the survivor of such trustees had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

When it is uncertain which of several trustees was the survivor.

When it is uncertain whether the last trustee be living or dead.

14. And be it enacted, that where any one or more person or persons shall have been seised or possessed of any lands upon any trust, and it shall not be known, as to the trustee last known to have been seised or possessed, whether he be living or dead, it shall be lawful for the Court of Chancery to make an order vesting such lands in such person or persons in such manner, and for such estate, as the said court shall direct; and the order shall have the same effect as if the last trustee had duly executed a conveyance or assignment of the lands in the same manner for the same estate.

When trustee dies without an heir.

15. And be it enacted, that when any person seised of any lands upon any trust shall have died intestate as to such lands without an heir, or shall have died and it shall not be known who is his heir or devisee, it shall be lawful for the Court of Chancery to make an order vesting such lands in such person or persons in such manner and for such estate as the said court shall direct; and the order shall have the same effect as if the heir or devisee of such trustee had duly executed a conveyance of the lands in the same manner for the same estate.

Contingent right of unborn trustee.

16. And be it enacted, that when any lands are subject to a contingent right in an unborn person or class of unborn persons who upon coming into existence would in respect thereof become seised or possessed of such lands upon any trust, it shall be lawful for the Court of Chancery to make an order which shall wholly release and discharge such lands from such contingent right in such unborn person or class of unborn persons, or to make an order which shall vest in any person or persons the estate or estates which such unborn person or class of unborn persons would upon coming into existence be seised or possessed of in such lands.

Power to appoint a person to convey in certain cases.

20. And be it enacted, that in every case where the lord chancellor, intrusted as aforesaid, or the Court of Chancery, shall, under the provisions of this act, be enabled to make

an order having the effect of a conveyance or assignment of any lands, or having the effect of a release or disposition of the contingent right of any person or persons, born or unborn, it shall also be lawful for the lord chancellor, intrusted as aforesaid, or the Court of Chancery, as the case may be, should it be deemed more convenient, to make an order appointing a person to convey or assign such lands, or release or dispose of such contingent right; and the conveyance or assignment, or release or disposition, of the person so appointed, shall, when in conformity with the terms of the order by which he is appointed, have the same effect, in conveying or assigning the lands, or releasing or disposing of the contingent right, as an order of the lord chancellor, intrusted as aforesaid, or the Court of Chancery, would in the particular case have had under the provisions of this act.

21. And be it enacted, that as to any lands situated within the Duchy of Lancaster or the Counties Palatine of Lancaster or Durham, it shall be lawful for the court of the Duchy Chamber of Lancaster, the Court of Chancery in the County Palatine of Lancaster, or the Court of Chancery in the County Palatine of Durham, to make a like order in the same cases as to any lands within the jurisdiction of the same courts respectively as the Court of Chancery has under the provisions hereinbefore contained been enabled to make concerning any lands; and every such order of the court of the Duchy Chamber of Lancaster, the Court of Chancery in the County Palatine of Lancaster, or the Court of Chancery in the County Palatine of Durham, shall, as to such lands, have the same effect as an order of the Court of Chancery: provided always, that no person who is anywhere within the limits of the jurisdiction of the High Court of Chancery shall be deemed by such local courts to be an absent trustee or mortgagee within the meaning of this act.

As to lands in  
Lancaster and  
Durham.

28. And be it enacted, that whensoever, under any of the Effect of an

order vesting copyhold lands or appointing any person to convey copyhold lands.

provisions of this act, an order shall be made either by the lord chancellor, intrusted as aforesaid, or the Court of Chancery, vesting any copyhold or customary lands in any person or persons, and such order shall be made, with the consent of the lord or lady of the manor whereof such lands are holden, then the lands shall, without any surrender or admittance in respect thereof, vest accordingly; and whenever, under any of the provisions of this act, an order shall be made, either by the lord chancellor, intrusted as aforesaid, or the Court of Chancery, appointing any person or persons to convey or assign any copyhold or customary lands, it shall be lawful for such person or persons to do all acts and execute all instruments for the purpose of completing the assurance of such lands; and all such acts and instruments so done and executed shall have the same effect, and every lord and lady of a manor, and every other person, shall, subject to the customs of the manor, and the usual payments, be equally bound and compellable to make admittance to such lands, and to do all other acts for the purpose of completing the assurance thereof, as if the persons in whose place an appointment shall have been made, being free from any disability, had duly done and executed such acts and instruments.

Court to declare what parties are trustees of lands comprised in any suit, and as to the interests of persons unborn.

30. And be it enacted, that where any decree shall be made by any court of equity for the specific performance of a contract concerning any lands, or for the partition or exchange of any lands, or generally when any decree shall be made for the conveyance or assignment of any lands, either in cases arising out of the doctrine of election or otherwise, it shall be lawful for the said court to declare that any of the parties to the said suit wherein such decree is made are trustees of such lands or any part thereof, within the meaning of this act, or to declare concerning the interests of unborn persons who might claim under any party to the said suit, or under the will or voluntary settlement of any person deceased who was during his lifetime a party to the contract or transactions

concerning which such decree is made, that such interests of unborn persons are the interests of persons who upon coming into existence would be trustees within the meaning of this act, and thereupon it shall be lawful for the lord chancellor, intrusted as aforesaid, or the Court of Chancery, as the case may be, to make such order or orders as to the estates, rights and interests of such persons, born or unborn, as the said court or the said lord chancellor might, under the provisions of this act, make concerning the estates, rights, and interests of trustees born or unborn.

37. And be it enacted, that an order, under any of the hereinbefore contained provisions, for the appointment of a new trustee or trustees, or concerning any lands, stock, or chose in action, subject to a trust, may be made upon the application of any person beneficially interested in such lands, stock, or chose in action, whether under disability or not, or upon the application of any person duly appointed as a trustee thereof; and that an order under any of the provisions hereinbefore contained concerning any lands, stock, or chose in action, subject to a mortgage, may be made on the application of any person beneficially interested in the equity of redemption, whether under disability or not, or of any person interested in the monies secured by such mortgage.

40. And be it enacted, that any person or persons entitled in manner aforesaid to apply for an order from the said Court of Chancery, or from the lord chancellor, intrusted as aforesaid, may, should he so think fit, present a petition in the first instance to the Court of Chancery, or to the lord chancellor, intrusted as aforesaid, for such order as he may deem himself entitled to, and may give evidence by affidavit or otherwise in support of such petition before the said court, or the lord chancellor, intrusted as aforesaid, and may serve such person or persons with notice of such petition as he may deem entitled to service thereof.

41. And be it enacted, that upon the hearing of any such motion or petition it shall be lawful for the said court or for

Who may  
apply.

Power to pre-  
sent petition  
in the first  
instance.

What may be  
done upon  
petition.

the said lord chancellor, should it be deemed necessary, to direct a reference to one of the masters in ordinary of the Court of Chancery to inquire into any facts which require such an investigation, or it shall be lawful for the said court or for the said lord chancellor to direct such motion or petition to stand over, to enable the petitioner or petitioners to adduce evidence or further evidence before the said court or before the said lord chancellor, or to enable notice or any further notice of such motion or petition to be served upon any person or persons.

Court may dismiss petition, with or without costs.

42. And be it enacted, that upon the hearing of any such motion or petition, whether any certificate or report from a master shall have been obtained or not, it shall be lawful for the court, or the lord chancellor, intrusted as aforesaid, to dismiss such motion or petition, with or without costs, or to make an order thereupon in conformity with the provisions of this act.

Power to make an order in a cause.

43. And be it enacted, that whensoever in any cause or matter, either by the evidence adduced therein, or by the admissions of the parties, or by a report of one of the masters of the Court of Chancery, the facts necessary for an order under this act shall appear to such court to be sufficiently proved, it shall be lawful for the said court, either upon the hearing of the said cause or of any petition or motion in the said cause or matter, to make such order under this act.

Orders made by the Court of Chancery, founded on certain allegations, to be conclusive evidence of the matter contained in such allegations.

44. And be it enacted, that whenever any order shall be made under this act, either by the lord chancellor, intrusted as aforesaid, or by the Court of Chancery, for the purpose of conveying or assigning any lands, or for the purpose of releasing or disposing of any contingent right, and such order shall be founded on an allegation of the personal incapacity of a trustee or mortgagee, or on an allegation that a trustee or the heir or devisee of a mortgagee is out of the jurisdiction of the Court of Chancery, or cannot be found, or that it is uncertain which of several trustees, or which of

several devisees of a mortgagee, was the survivor, or whether the last trustee, or the heir or last surviving devisee of a mortgagee, be living or dead, or on an allegation that any trustee or mortgagee has died intestate without an heir, or has died and it is not known who is his heir or devisee, then in any of such cases the fact that the lord chancellor, intrusted as aforesaid, or the Court of Chancery, has made an order upon such an allegation, shall be conclusive evidence of the matter so alleged in any court of law or equity upon any question as to the legal validity of the order: provided always, that nothing herein contained shall prevent the Court of Chancery directing a re-conveyance or re-assignment of any lands conveyed or assigned by any order under this act, or a re-disposition of any contingent right conveyed or disposed of by such order; and it shall be lawful for the said court to direct any of the parties to any suit concerning such lands or contingent right to pay any costs occasioned by the order under this act, when the same shall appear to have been improperly obtained.

48. And be it enacted, that where any infant or person of unsound mind shall be entitled to any money payable in discharge of any lands, stock or chose in action conveyed, assigned or transferred under this act, it shall be lawful for the person by whom such money is payable to pay the same into the Bank of England in the name and with the privity of the accountant-general, in trust in any cause then depending concerning such money, or, if there shall be no such cause, to the credit of such infant or person of unsound mind, subject to the order or disposition of the said court; and it shall be lawful for the said court, upon petition in a summary way, to order any money so paid to be invested in the public funds, and to order payment or distribution thereof, or payment of the dividends thereof, as to the said court shall seem reasonable; and every cashier of the Bank of England who shall receive any such money is hereby required to give to the person paying the same a receipt for

Money of infants and persons of unsound mind to be paid into court.

such money, and such receipt shall be an effectual discharge for the money therein respectively expressed to have been received.

Court may make a decree in the absence of a trustee.

49. And be it enacted, that where in any suit commenced or to be commenced in the Court of Chancery it shall be made to appear to the court by affidavit that diligent search and inquiry has been made after any person made a defendant, who is only a trustee, to serve him with the process of the court, and that he cannot be found, it shall be lawful for the said court to hear and determine such cause, and to make such absolute decree therein against every person who shall appear to them to be only a trustee and not otherwise concerned in interest in the matter in question, in such and the same manner as if such trustee had been duly served with the process of the court, and had appeared and filed his answer thereto, and had also appeared by his counsel and solicitor at the hearing of such cause: provided always, that no such decree shall bind, affect, or in anywise prejudice any person against whom the same shall be made, without service of process upon him as aforesaid, his heirs, executors or administrators, for or in respect of any estate, right or interest which such person shall have at the time of making such decree, for his own use or benefit, or otherwise than as a trustee as aforesaid.

Costs may be paid out of the estate.

51. And be it enacted, that the lord chancellor, intrusted as aforesaid, and the Court of Chancery, may order the costs and expenses of and relating to the petitions, orders, directions, conveyances, assignments and transfers to be made in pursuance of this act, or any of them, to be paid and raised out of or from the lands or personal estate, or the rents or produce thereof, in respect of which the same respectively shall be made, or in such manner as the said lord chancellor or court shall think proper.

Commission concerning person of unsound mind.

52. And be it enacted, that upon any petition being presented under this act to the lord chancellor, intrusted as aforesaid, concerning a person of unsound mind, it shall be

lawful for the said lord chancellor, should he so think fit, to direct that a commission in the nature of a writ *de lunatico inquirendo* shall issue concerning such person, and to postpone making any order upon such petition until a return shall have been made to such commission.

54. And be it enacted, that the powers and authorities given by this act to the Court of Chancery in England shall extend to all lands and personal estate within the dominions, plantations and colonies belonging to her Majesty (except Scotland).

Powers of Court of Chancery to extend to property in the colonies.

55. And be it enacted, that the powers and authorities given by this act to the Court of Chancery in England shall and may be exercised in like manner and are hereby given and extended to the Court of Chancery in Ireland with respect to all lands and personal estate in Ireland.

Powers given to Court of Chancery may be exercised by that court in Ireland.

56. And be it enacted, that the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall extend to all lands and personal estate within any of the dominions, plantations and colonies belonging to her Majesty (except Scotland and Ireland).

Powers of Lord Chancellor in Lunacy to extend to property in the colonies.

57. And be it enacted, that the powers and authorities given by this act to the lord chancellor of Great Britain, intrusted as aforesaid, shall and may be exercised in like manner by and are hereby given to the lord chancellor of Ireland, intrusted as aforesaid, with respect to all lands and personal estate in Ireland.


Powers of Lord Chancellor in Lunacy may be exercised by Lord Chancellor of Ireland

## TRUSTEE EXTENSION ACT, 1852.

15 &amp; 16 VICT. c. 55.

*An Act to extend the Provisions of the Trustee Act, 1850.*

2. That sections numbered 17 and 18 in the Queen's printer's copy of the Trustee Act, 1850, be repealed; and in every case where any person is or shall be jointly or solely seised or possessed of any lands or entitled to a contingent right therein upon any trust, and a demand shall have been made upon such trustee by a person entitled to require a conveyance or assignment of such lands, or a duly-authorized agent of such last-mentioned person, requiring such trustee to convey or assign the same, or to release such contingent right, it shall be lawful for the Court of Chancery, if the said court shall be satisfied that such trustee has wilfully refused or neglected to convey or assign the said lands for the space of twenty-eight days after such demand, to make an order vesting such lands in such person, in such manner and for such estate as the court shall direct, or releasing such contingent right in such manner as the court shall direct; and the said order shall have the same effect as if the trustee had duly executed a conveyance or assignment of the lands, or a release of such right, in the same manner and for the same estate.



THE LEASES AND SALES OF SETTLED  
ESTATES ACT, 1856.

19 & 20 VICT. c. 120.

*An Act to facilitate Leases and Sales of Settled Estates.*

[29th July, 1856.]

23. All money to be received on any sale effected under the authority of this act, or to be set aside out of the rent or payments reserved on any lease of earth, coal, stone, or minerals as aforesaid, may, if the court shall think fit, be paid to any trustees of whom it shall approve, or otherwise the same shall be paid into the Bank of England or Ireland, as the case may be, to the account of the accountant-general of the Court of Chancery, ex parte the applicant in the matter of this act, and in either case such money shall be applied as the court shall from time to time direct to some one or more of the following purposes; (namely,)

Court may appoint trustees to receive and apply monies arising from sales.

The purchase or redemption of the land tax, or the discharge or redemption of any incumbrance affecting the hereditaments in respect of which such money was paid, or affecting any other hereditaments subject to the same uses or trusts; or

The purchase of other hereditaments to be settled in the same manner as the hereditaments in respect of which the money was paid; or

The payment to any person becoming absolutely entitled.

24. The application of the money in manner aforesaid may, if the court shall so direct, be made by the trustees (if any) without any application to the court, or otherwise upon an order of the court upon the petition of the person who would be entitled to the possession or the receipt of the rents and profits of the land if the money had been invested in the purchase of land.

Trustees may apply monies, in certain cases, without application to court.

Until money  
can be applied,  
to be invested,  
and dividends  
to be paid to  
parties entitled.

25. Until the money can be applied as aforesaid, the same shall be from time to time invested in exchequer bills, or in Three per Centum Consolidated Bank Annuities, as the court shall think fit; and the interest and dividends of such exchequer bills or bank annuities shall be paid to the person who would have been entitled to the rents and profits of the land if the money had been invested in the purchase of land.



## THE PARTITION ACT, 1868.

31 & 32 VICT. c. 40.

*An Act to amend the Law relating to Partition.*

[25th June, 1868.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

Short title.

1. This act may be cited as the Partition Act, 1868.

As to the term  
"the Court."

2. In this act the term "the court" means the Court of Chancery in England, the Court of Chancery in Ireland, the Landed Estates Court in Ireland, and the Court of Chancery of the County Palatine of Lancaster, within their respective jurisdictions.

Power to court  
to order sale  
instead of  
division.

3. In a suit for partition, where, if this act had not been passed, a decree for partition might have been made, then if it appears to the court that, by reason of the nature of the property to which the suit relates, or of the number of the parties interested or presumptively interested therein, or of the absence or disability of some of those parties, or of any other circumstance, a sale of the property and a distribution of the proceeds would be more beneficial for the parties interested than a division of the property between or among

them, the court may, if it thinks fit, on the request of any of the parties interested, and notwithstanding the dissent or disability of any others of them, direct a sale of the property accordingly, and may give all necessary or proper consequential directions.

4. In a suit for partition, where, if this act had not been passed, a decree for partition might have been made, then, if the party or parties interested, individually or collectively, to the extent of one moiety or upwards in the property to which the suit relates, request the court to direct a sale of the property and a distribution of the proceeds instead of a division of the property between or among the parties interested, the court shall, unless it sees good reason to the contrary, direct a sale of the property accordingly, and give all necessary or proper consequential directions.

Sale on application of certain proportion of parties interested.

5. In a suit for partition, where, if this act had not been passed, a decree for partition might have been made, then if any party interested in the property to which the suit relates requests the court to direct a sale of the property and a distribution of the proceeds instead of a division of the property between or among the parties interested, the court may, if it thinks fit, unless the other parties interested in the property, or some of them, undertake to purchase the share of the party requesting a sale, direct a sale of the property, and give all necessary or proper consequential directions, and in case of such undertaking being given the court may order a valuation of the share of the party requesting a sale in such manner as the court thinks fit, and may give all necessary or proper consequential directions.

As to purchase of share of party desiring sale.

6. On any sale under this act the court may, if it thinks fit, allow any of the parties interested in the property to bid at the sale, on such terms as to non-payment of deposit, or as to setting off or accounting for the purchase-money, or any part thereof, instead of paying the same, or as to any other matters, as to the court seem reasonable.

Authority for parties interested to bid.

7. Section thirty of the Trustee Act, 1850, shall extend Application of

Trustee Act  
(13 & 14 Vict.  
c. 60).

Application of  
proceeds of  
sale (19 & 20  
Vict. c. 120).

Parties to par-  
tition suits.

Costs in par-  
tition suits.

As to General  
Orders under  
this act (21  
& 22 Vict.  
c. 27).

Jurisdiction of  
county courts  
in partition

and apply to cases where, in suits for partition, the court directs a sale instead of a division of the property.

8. Sections twenty-three to twenty-five (both inclusive) of the act of the session of the nineteenth and twentieth years of her Majesty's reign (chapter one hundred and twenty), "to facilitate leases and sales of settled estates," shall extend and apply to money to be received on any sale effected under the authority of this act.

9. Any person who, if this act had not been passed, might have maintained a suit for partition, may maintain such suit against any one or more of the parties interested, without serving the other or others (if any) of those parties; and it shall not be competent to any defendant in the suit to object for want of parties; and at the hearing of the cause the court may direct such inquiries as to the nature of the property, and the persons interested therein, and other matters, as it thinks necessary or proper with a view to an order for partition or sale being made on further consideration; but all persons who, if this act had not been passed, would have been necessary parties to the suit, shall be served with notice of the decree or order on the hearing, and after such notice shall be bound by the proceedings as if they had been originally parties to the suit, and shall be deemed parties to the suit; and all such persons may have liberty to attend the proceedings; and any such person may, within a time limited by general orders, apply to the court to add to the decree or order.

10. In a suit for partition the court may make such order as it thinks just respecting costs up to the time of the hearing.

11. Sections nine, ten, and eleven of the Chancery Amendment Act, 1858, relative to the making of general orders, shall have effect as if they were reprinted in this act, and in terms made applicable to the purposes thereof.

12. In England the county courts shall have and exercise the like power and authority as the Court of Chancery in

suits for partition (including the power and authority conferred by this act) in any case where the property to which the suit relates does not exceed in value the sum of five hundred pounds, and the same shall be had and exercised in like manner and subject to the like provisions as the power and authority conferred by section one of the County Courts Act, 1865. (28 & 29 Vict. c. 99).

## THE PARTITION ACT, 1876.

39 & 40 VICT. c. 17.

*An Act to amend the Partition Act, 1868.*

[27th June, 1876.]

BE it enacted by the Queen's most excellent Majesty, by and with the advice and consent of the lords spiritual and temporal, and commons, in this present parliament assembled, and by the authority of the same, as follows:

1. This act may be cited as the Partition Act, 1876, and shall be read as one with the Partition Act, 1868. Short title.

2. This act shall apply to actions pending at the time of the passing of this act as well as to actions commenced after the passing thereof, and the term "action" includes a suit, and the term "judgment" includes decree or order. Application of act.

3. Where in an action for partition it appears to the court that notice of the judgment on the hearing of the cause cannot be served on all the persons on whom that notice is by the Partition Act, 1868, required to be served, or cannot be so served without expense disproportionate to the value of the property to which the action relates, the court may, if it thinks fit, on the request of any of the parties interested in the property, and notwithstanding the dissent or disability of any others of them, by order, dispense with that service Power to dispense with service of notice of decree or order in special cases.

on any person or class of persons specified in the order, and, instead thereof, may direct advertisements to be published at such times and in such manner as the court shall think fit, calling upon all persons claiming to be interested in such property who have not been so served to come in and establish their respective claims in respect thereof before the judge in chambers within a time to be thereby limited. After the expiration of the time so limited all persons who shall not have so come in and established such claims, whether they are within or without the jurisdiction of the court (including persons under any disability), shall be bound by the proceedings in the action as if on the day of the date of the order dispensing with service they had been served with notice of the judgment, service whereof is dispensed with; and thereupon the powers of the court under the Trustee Act, 1850, shall extend to their interests in the property to which the action relates as if they had been parties to the action; and the court may thereupon, if it shall think fit, direct a sale of the property and give all necessary or proper consequential directions.

Proceedings  
where service  
is dispensed  
with.

4. Where an order is made under this act dispensing with service of notice on any person or class of persons, and property is sold by order of the court, the following provisions shall have effect:

- (1.) The proceeds of sale shall be paid into court to abide the further order of the court:
- (2.) The court shall, by order, fix a time, at the expiration of which the proceeds will be distributed, and may from time to time, by further order, extend that time:
- (3.) The court shall direct such notices to be given by advertisements or otherwise as it thinks best adapted for notifying to any persons on whom service is dispensed with, who may not have previously come in and established their claims, the fact of the sale, the time of the intended

distribution, and the time within which a claim to participate in the proceeds must be made :

- (4.) If at the expiration of the time so fixed or extended the interests of all the persons interested have been ascertained, the court shall distribute the proceeds in accordance with the rights of those persons :
- (5.) If at the expiration of the time so fixed or extended the interests of all the persons interested have not been ascertained, and it appears to the court that they cannot be ascertained, or cannot be ascertained without expense disproportionate to the value of the property or of the unascertained interests, the court shall distribute the proceeds in such manner as appears to the court to be most in accordance with the rights of the persons whose claims to participate in the proceeds have been established, whether all those persons are or are not before the court, and with such reservations (if any) as to the court may seem fit in favour of any other persons (whether ascertained or not) who may appear from the evidence before the court to have any *primâ facie* rights which ought to be so provided for, although such rights may not have been fully established, but to the exclusion of all other persons, and thereupon all such other persons shall by virtue of this act be excluded from participation in those proceeds on the distribution thereof, but notwithstanding the distribution any excluded person may recover from any participating person any portion received by him of the share of the excluded person.

5. Where in an action for partition two or more sales are made, if any person who has by virtue of this act been excluded from participation in the proceeds of any of those sales establishes his claim to participate in the

Provision for case of successive sales in same action.

proceeds of a subsequent sale, the shares of the other persons interested in the proceeds of the subsequent sale shall abate to the extent (if any) to which they were increased by the non-participation of the excluded person in the proceeds of the previous sale, and shall to that extent be applied in or towards payment to that person of the share to which he would have been entitled in the proceeds of the previous sale if his claim thereto had been established in due time.

Request by married woman, infant, or person under disability.

6. In an action for partition a request for sale may be made or an undertaking to purchase given on the part of a married woman, infant, person of unsound mind, or person under any other disability, by the next friend, guardian, committee in lunacy (if so authorized by order in lunacy), or other person authorized to act on behalf of the person under such disability, but the court shall not be bound to comply with any such request or undertaking on the part of an infant unless it appear that the sale or purchase will be for his benefit.

Action for partition to include action for sale and distribution of the proceeds.

7. For the purposes of the Partition Act, 1868, and of this act, an action for partition shall include an action for sale and distribution of the proceeds, and in an action for partition it shall be sufficient to claim a sale and distribution of the proceeds, and it shall not be necessary to claim a partition.

# INDEX.

---

## A.

### ABSENCE OF PARTIES,

- may be ground for decreeing sale, 34, 38, 138
- will not be a bar to sale, 77.

### ABSENT PARTIES,

- must be brought before court, 77.
- service on, may be dispensed with, 77.
- notice to, of sale, 80.
- advertisements for, 80, 142.
- distribution of proceeds of sale, 80.

### ACCOUNT,

- when to be asked for, 61.
- by tenant in occupation, 45.
- in case of infant's estate, 46.
- by owner of undivided moiety, 48.
- by tenant in common, 48.

### ACTION FOR PARTITION,

- is an administrative proceeding, 12.
- cannot be joined with action for recovery of land without leave of court or judge, 12, 104.
- includes action for sale and distribution of proceeds, 13, 144.
- See also* PARTITION and SALE.

ADVANTAGE of sale must be for parties generally, 35.

ADVERSE POSSESSION of infant's estate, 47.

### ADVERTISEMENTS,

- in lieu of service, 78.
- notice of sale by, 80, 142.

ADVOWSON, partition of, may be made by alternate presentations, 20.

AFFIDAVIT,

verifying statement of claim, when required, 63.

ALTERNATE ENJOYMENT may be directed, 18.

APPLICATION OF PURCHASE-MONEY, 90, 137, 140.

APPOINTMENT OF RECEIVER,

before sale, 58.

under Trustee Act, 1850 . . 59.

ASCERTAINMENT of parties interested, 80, 143.

ASSIGNMENT, definition of, under Trustee Act, 1850 . . 124.

## B.

BIDDING AT SALE. *See* LIBERTY TO BID.

## C.

CERTIFICATE,

of chief clerk, 66.

must precede sale, 98.

CHANCERY, COURT OF. *See* COURT OF CHANCERY.

CHANCERY DIVISION. *See* COURT OF CHANCERY.

CHIEF CLERK'S CERTIFICATE, 66.

must precede sale, 67, 98.

CLAIM, statement of, when to be verified by affidavit, 63.

COMMITTEE, lunatic may sue for partition by, 23, 144.

COMMON LAW, procedure at, 9.

CONDUCT OF SALE,

usually given to plaintiff, 74.

when all parties have leave to bid, conduct given to solicitor, 75.

CONSTRUCTION of will by consent, 106.

CONTINGENT RIGHT,

definition of, under Trustee Act, 1850 . . 123.

conveyance of, 125, 127.

**CONVERSION,**

sale of infant's estate does not operate as, 8, 27.

sale rightfully made operates as, in absence of equity for re-conversion, 27.

**CONVEYANCE**, definition of, under Trustee Act, 1850 . . 123.

**CO-PARCENERS**, right of, to partition, 19, 22.

**COPYHOLDS,**

not subject of partition suit before 1868 . . 14.

effect of vesting order in case of, 86, 129.

**COSTS,**

sale for payment of, 6.

under Trustee Act, 1850 . . 86.

discretion of court as to, 109, 112, 140.

practice before 1868 . . 109.

decisions under Partition Act, 1868, as to, 112.

generally be borne by parties in proportion to interest, 112, 114.

may be paid out of estate under Trustee Act, 1850 . . 134.

**CO-TENANT IN OCCUPATION,**

account by, 45.

in case of infant's share, 46.

**COUNTY COURT,**

jurisdiction of, in partition, 10, 140.

transfer of suit from, 10.

suit in, when dismissed for excess of value, 11.

**COURT OF CHANCERY,**

assumption of jurisdiction in partition by, 4, 9.

had no power to decree sale before Partition Act, 1868 . . 6.

jurisdiction of, under Partition Act, 1868 . . 9, 138.

assigned to Chancery Division by Judicature Acts, 10.

authority, when exercised by county courts, 10.

transfer to, from county court, 11.

discretion of, as to costs of partition actions, 109, 112.

**CURTESY**, tenant by, entitled to partition, 23.

**CUSTOMARY FREEHOLDS**, not subject of partition suit before 1868 . . 14.

## D.

DAY to show cause abolished, 88.

DECREE for partition cannot be disturbed, 94.

DEFENDANT,

may request sale when plaintiff claims partition, 25, 64.

onus of objecting to sale is upon, when plaintiff owner of a moiety, 28.

cannot object for want of parties, 61, 140.

DEPOSIT, payment of, dispensed with to party having leave to bid, 75.

DEVISEE, definition of, under Trustee Act, 1850..124.

DIRECTIONS for sale, 40.

DISABILITY,

sale for costs of persons under, 6.

of parties may be ground for decreeing sale, 36.

not to be a bar to sale, 39, 141.

party under, may be declared a trustee, 84.

DISCHARGE of incumbrances, 90.

DISCRETION of court as to costs, 112.

DISSENT of parties not to be a bar to sale, 39, 141.

DISTRIBUTION of proceeds of sale, 80, 143.

## E.

EQUITABLE TITLE in plaintiff is sufficient, 60.

EQUITY for re-conversion, 27, 91.

ESTATES IN FEE were subject of partition suit before 1868..14.

EVIDENCE,

in partition actions, 63.

onus of proof as to benefit of sale, 28.

plaintiff must prove his title, 63.

EXCESS OF VALUE, transfer of suit from county court for, 10.

EXCLUSION,

from participation, 81.

party excluded may recover share, 81, 143.

## F.

FRANCE, law of, as to partition, 7.

FURTHER CONSIDERATION, 97, 99, 107.

## G.

GUARDIAN may request sale on behalf of infant, 26, 144.

## H.

HARDSHIP, in case of, to particular owner, court may order sale, 33, 41.

HEARING, order for sale at, 97.

## I.

IMPROVEMENTS, right of tenant in occupation to reimbursement for, 56, 61.

INCONVENIENCE to one party, not alone sufficient reason for refusing sale, 32.

INCUMBRANCERS, costs of, 115.

INCUMBRANCES, inquiry as to, 66.  
discharge of, 90.

## INFANT,

sale for payment of costs of, 6.

sale of estate of, does not operate as conversion, 8, 27.

right of, to partition before 1868 . . 23.

request for sale may be made on behalf of, 26, 99, 144.

request for sale on behalf of, not complied with if not for his benefit, 26.

party entering on estate of, treated as trustee, 46.

trustee, power of court as to, 85, 126.

effect of Trustee Act, 1850, upon rights of, 88.

INJUNCTION, 59, 107.

## INQUIRIES,

preliminary, 62.

as to incumbrances, 66.

INVESTMENT of purchase-money, 91, 138.

## J.

JOINT TENANTS, were compellable to make partition by statute  
32 Hen. 8, c. 32 . . 3, 14.

JUDICATURE ACTS, 10.

JURISDICTION,

at common law, 9.

of Chancery Division, 10.

of county courts, 10, 140.

in partition, founded on request of owner or owners, 24.

to decree, sale founded on consideration of possible hardship, 41.

power of court where trustee out of, 85, 137.

## L.

LAND TAX. redemption of, application of purchase-money to, 90,  
137.

LANDS, definition of, under Trustee Act, 1850 . . 122.

LEASEHOLDS, jurisdiction over, in partition suits before 1868 . . 15.

LEASES AND SALES OF SETTLED ESTATES ACT, 1856,  
application of, to partition, 8, 27, 90, 140.  
creates equity for re-conversion in case of person under disability,  
27, 91.

provision for payment of purchase-money, 90, 137.

payment to trustee under, refused, 107.

LEGAL ESTATE may be got in under powers of Trustee Act,  
1850 . . 60.

LESSEE of undivided share, costs of, 115.

LIBERTY TO BID,

may be reserved, 74, 139.

where all parties have, solicitor will be appointed to conduct  
sale, 75.

party having, excused from making deposit, 75.

may set off value of his own share, 76, 97.

LOSS to one party not alone sufficient reason to refuse sale, 32.

LUNACY, request for sale by person of unsound mind must be dealt  
with in, 101.

LUNATIC,

may sue for partition or sale by committee, 23, 26.

definition of, under Trustee Act, 1850 . . 124.

## M.

**MAJORITY** resisting sale may undertake to purchase shares at valuation, 40.

**MANOR** may be subject of partition, 18.

**MARRIED WOMAN,**

right to partition before 1868 . . 23.

request for sale may be on behalf of, 26, 144.

**MINORITY,**

request for sale by, 33.

onus is on parties requesting sale, 35.

**MOIETY,**

request for sale by owners of, 28.

onus is on parties objecting, 28.

**MORTGAGE**, definition of, under Trustee Act, 1850 . . 125.

## N.

**NATURE OF PROPERTY** may be ground for decreeing sale, 36.

**NEGLECT** of trustee to convey, 86.

**NEXT FRIEND,**

of married woman may request sale, 26, 144.

of person of unsound mind cannot request sale, 100, 144.

**NUMBER** of owners may be ground for decreeing sale, 37.

## O.

**OCCUPATION RENT,**

when payable by co-tenant, 45, 51.

in case of infant's share, 46.

in other cases cannot arise without agreement, 53.

**ONUS OF PROOF** as to benefit of sale, 28, 35.

**OWNER**, *primâ facie* right of, to partition, 24.

## P.

**PARTICIPATION IN PROFITS.** exclusion from, 81.

**PARTITION,**

meaning of, 1.

state of law as to, before 1868 . . 2.

PARTITION—*continued.*

French law as to, 7.

statute 31 Hen. 8, c. 1 . . 2, 117.

related only to estates in fee simple, 14.

statute 32 Hen. 8, c. 32 . . 3, 119.

statute 4 & 5 Vict. c. 35, s. 85 . . 14, 122.

assumption of jurisdiction by Court of Chancery, 4.

partition of a house, 5.

of a mine, 5.

court had no power to decree sale without consent, 6

writ of partition, 9.

estates subject to a partition suit, 14.

estates in fee, 14.

tenancy for life or years, 14.

copyholds, 14.

customary freeholds, 14.

leaseholds, 15.

reversions, 15.

property subject to partition, 17.

rent-charge, 17.

estovers, common, &c., 18.

manors, 18.

advowsons, 20.

mills, 20.

alternate enjoyment, 18, 20.

partition by, does not effect severance of estate, 21.

action for, under Partition Act, 12.

partition need not be claimed, 12, 25, 144.

is an administrative proceeding, 12.

cannot be joined with actions for recovery of land without leave of court or judge, 12, 104.

includes action for sale and distribution of proceeds, 13, 104.

partition or sale may be prayed for in alternative, 13.

disputed title to land cannot be tried in, 105.

sale cannot be decreed where no partition possible, 21.

jurisdiction in, given to Chancery Division by Judicature Acts, 10.

jurisdiction of county courts as to, 10, 11.

what persons can maintain action for, 22, 139.

plaintiff must have had right if act had not passed, 22.

co-parceners, 22.

joint tenants, 22.

tenants in common, 22.

tenants for life or years, 22.

PARTITION—*continued.*

- what persons can maintain action for—*continued.*
  - tenant by curtesy, 23.
  - infant, 23.
  - married woman, 23.
  - lunatic, 23.
- reversioner of undivided share cannot sue, 23.
- person of unsound mind, not so found by inquisition, cannot sue, 23.
- right to demand partition, if sale denied, still exists, 24.
- every owner has *prima facie* right to, 24.
- right to, limited by Partition Act, 24.
- request for sale instead of, by plaintiff, 25.
  - by defendant, 25, 64.
  - by infant, 25.
  - by married woman, 26.
  - by lunatic, 26.
  - by owners of one moiety or upwards, 28.
    - onus on parties objecting to sale, 28.
    - power of court to refuse, 28, 32.
  - by owners in a minority, 33.
    - onus on parties requesting, 33.
    - benefit must be to parties collectively, 35.
    - benefit must be pecuniary, 35.
    - effect of absence or disability of parties, 39.
    - valuation of share of parties applying, 40.
    - power to order sale on refusal of majority to purchase share, 40.
- account by tenant in occupation, 45.
- effect of statute 4 Anne, c. 16 . . 48.
- distinction between claim for occupation rent and for account of rents and profits, 52.
- rule as to rents and profits, 53.
- proceeds of sale of timber, 55.
- tenant entitled to reimbursement for repairs and improvements, 56.
- appointment of receiver, 58.
  - in case of infants, 58.
  - where tenant in occupation declared trustee, 59.
- injunction, 59, 107.
- plaintiff must show title to undivided share, 60.
- defendant's title need not be minutely stated by plaintiff, 60.
- all owners of shares need not be parties in first instance, 61.

PARTITION—*continued*.

- defendant cannot object for want of parties, 61.
- title of plaintiff and defendant must spring from one root, 61.
- plaintiff must disclose grounds for sale, 61.
- if plaintiff own a moiety, defendant must state grounds of objection, 61.
- account to be prayed for, 61.
- judgment or order for sale, 62, 94.
- order for preliminary inquiry, 62, 64.
  - forms of order, 64, 68, 69.
- evidence, 63.
- plaintiff must prove his title, 63.
- onus on defendant to resist sale, 64.
- chief clerk's certificate must be made before sale, 67, 98.
- when sale may proceed, after reference for inquiry, without coming back to court, 66, 68.
- judgment on defendant's undertaking to purchase, 70.
  - form of judgment, 70.
- decree on plaintiff's claim to partition, 71.
  - form of judgment, 71.
- court may order sale of part and partition of part, 72, 95.
  - form of judgment, 95.
- practice where co-owners are absent, or unknown, or too numerous to be served, 77, 140.
- court may dispense with services, and direct advertisements of, 78, 142.
- application of Trustee Act, 1850, to absent parties, 79, 83, 86, 139.
- object and effect of incorporation of Trustee Act, 1850.. 83.
- power of court to make vesting order, or to appoint person to convey estate, 81.
- court may declare infant trustee of parts allotted in severalty to others, 89.
- decree for, cannot be disturbed, and sale ordered instead, 94.
- further consideration, 96, 99.
- person of unsound mind, not so found, cannot sue for, 100.
- reversioner cannot sue for, 101.
- court cannot determine a legal right, 106.
- construction of will by consent, 106.
- costs, power of court as to, 109, 110.
  - old practice as to, 109.
  - are within absolute discretion of judge, 112.
  - of all parties may be made lien on proceeds of sale, 114.

PARTITION—*continued.*

costs, power of court as to—*continued.*

should be apportioned in proportion to interests, 114.

of lessee of undivided share, 115.

*See also* PARTITION ACTS; SALE; and WRIT OF PARTITION.

## PARTITION ACT, 1868,

chief object of act, 1.

evils to be remedied by, 4.

protection to heirs of infants, 8.

jurisdiction given to Courts of Chancery, 10, 138.

to Landed Estates Court, Ireland, 10, 138.

to county courts, 10, 140.

transfer from county court for excess of value, 10.

plaintiff must be person who could have maintained suit before act, 22.

limits right of partition, 24.

jurisdiction of court founded on request, 24.

sale of infant's estate under, does not convert realty into personality, 27.

request for sale by owners of one moiety or upwards, 28, 139.

by owners in a minority, 33, 138.

power of court to order sale if parties opposing refuse to purchase shares, 40, 139.

court cannot compel an owner to sell to his co-proprietors, 43.

practice under, 60.

all parties need not be served, 77, 140.

defendant cannot object for want of parties, 61, 77, 140.

judgment or order for sale under, 62.

judgment of partition, 71.

parties interested may be allowed to bid at sale, 74, 97, 139.

incorporation of sect. 30 of Trustee Act, 1850, into, 83, 139.

trust created by decree or judgment will be in favour of purchaser, 84.

other sections of Trustee Act, 1850, applicable to Partition Act, 85.

incorporation of sects. 23—25 of Leases and Sales of Settled Estates Act, 90, 140.

incorporation of sects. 9—11 of Chancery Amendment Act, 1858.. 140.

retrospective operation of, 93.

further consideration under, 96, 99.

costs, power of court as to, 109, 140.

**PARTITION ACT, 1876,**

- to be read as one with Partition Act, 1868 . . 141.
- applies to pending actions, 141.
- directed to points of practice, 8.
- partition need not be prayed for, 25, 144.
- court may dispense with service and direct advertisements, 78, 141.
- application of Trustee Act, 1850, to absent parties, 79, 86, 142.
- proceedings where service dispensed with, 79, 142.
- payment of proceeds of sale into court, 80, 142.
- time for distribution, 80, 142.
- notice of sale, 80, 142.
- distribution of proceeds, 80, 143.
- right of parties excluded to recover portions, 81, 143.
- does not in terms authorize a person of unsound mind to sue by next friend, but court may act on request for sale, 101.
- provision for successive sales, 143.
- action for partition includes action for sale, 144.

**PARTITION SUITS. See PARTITION and PARTITION ACTS.****PARTNERSHIP, meaning of, in stat. 31 Hen. 8, c. 1 . . 2.****PAYMENT INTO COURT,**

- of proceeds of sale, 80, 142.
- of money of infants or persons of unsound mind, 133.

**PECUNIARY BENEFIT to be estimated in decreeing sale, 35.****PLAINTIFF,**

- who may be, 22.
- need not claim partition, 13, 25, 144.
- may request sale, 25.
- primary right of, to partition, 71.
- equitable title in, is sufficient, 60.
- must disclose reasons for sale, 61.
- must prove his title, 63.
- affidavit by, in unopposed cases, 63.
- cannot be compelled to sell share, 70.

**PRACTICE UNDER PARTITION ACTS. 60.**

- defendant cannot object for want of parties, 61.
- account, when to be asked for, 61.
- preliminary inquiries, 62.
- when may be dispensed with, 62.

**PRACTICE UNDER PARTITION ACTS**—*continued.*

- affidavit by plaintiff in unopposed cases, 63.
- when defendant requests sale, 64.
- inquiry as to incumbrances, 66.
- chief clerk's certificate, 66, 98.
- court may order sale of part and partition of part, 72.
- reserving liberty to bid, 74.
- conduct of sale, 74.
- service may be dispensed with in certain cases, 78.
- notice of sale, 80.
- payment of proceeds of sale into court, 80.
- distribution of proceeds, 80.
- ascertainment of parties, 80.
- exclusion from participation, 81.
- costs in partition actions, 109.
- petition under Trustee Act, 1850 . . 132.

**PRESUMPTION** of death of co-tenant, 82.**PROCEEDS OF SALE,**

- payment into court of, 80, 142.
- distribution of, 80, 90, 143.
- re-investment of, 92.
- exclusion from participation in, 81, 143.
- equity for re-conversion, 27, 91.

**PROFITS,**

- account of, by co-tenants in occupation, 45, 53.
- partition of, does not effect severance of estate, 21.

**PURCHASE-MONEY.** *See* PROCEEDS OF SALE.**PURCHASER,** trust in favour of, 84.**R.****RECEIVER,**

- appointment of, before sale, 58.
- under Trustee Act, 1850 . . 59.

**RE-CONVERSION,** equity for, 27, 91.**REDEMPTION** of land tax, application of purchase-money to, 90, 137.

## REFUSAL,

- to purchase share of parties requesting sale, 33, 69.
- to convey, operation of Trustee Act, 1850, in case of, 84.

REIMBURSEMENT of repairs and improvements to tenant in occupation, 56.

RE-INVESTMENT of purchase-money, 92.

RENT-CHARGE may be subject of partition, 17.

## RENTS,

- account of, by tenant in occupation, 45.
- in case of share of infant, 46.

REPAIRS, right of tenant in occupation to reimbursement for, 56.

## REQUEST FOR SALE,

- jurisdiction in partition actions founded on, 24.
- by plaintiff, 25.
- by defendant, 25, 64.
- by owners of moiety, 28.
- by owners of minority, 33.
- by infant, 99.
- on behalf of person of unsound mind, 100.

RETROSPECTIVE OPERATION of Partition Act, 1868 . 93.

REVERSION, jurisdiction over, in partition suits before 1868 .. 14.

## REVERSIONER,

- of undivided share has no right to partition, 23, 103.
- cannot cure defect in title by acquiring estate, 23.

## RIGHT,

- of owner to partition limited by statute, 24.
- of tenant in occupation to reimbursement for repairs and improvements, 56.

## S.

## SALE,

- court is only authorized to make order for, in action for partition, 1.
- could not be decreed instead of partition without consent before Partition Act, 6.

SALE—*continued.*

for payment of infant's costs, 6.

French law as to, 7.

may now be enforced at instance of one or more co-owners, 7.

action for, assigned to Chancery Division by Judicature Acts, 10.

county court jurisdiction as to, 10.

nature of action, 12.

prayer may be in alternative, but it is sufficient to claim sale and distribution of proceeds, 13.

cannot be decreed where no partition possible, 21.

what persons can maintain suit for, 22, 139.

every tenant may sue for, if property incapable of division, 58.

request for, instead of partition, by plaintiff, 25.

by defendant, 25, 64.

by infant, 25, 144.

by married woman, 26, 144.

by lunatic, 26, 144.

by owners of one moiety or upwards, 28, 139.

onus on parties objecting to, 28.

power of court to refuse, 28, 32.

by owners in a minority, 33, 138.

onus on parties requesting, 33.

benefit must be to parties collectively, 35.

benefit must be pecuniary, 35.

questions to be considered, 36.

effect of absence or disability of parties, 39.

valuation of share of parties applying, 40.

power to order sale on refusal of majority to purchase share, 40, 139.

party requesting sale of whole, cannot insist on sale of share, 43.

proceeds of, when to be treated as personal estate, 27.

if rightly made, is a conversion, 27.

of infant's estate, does not operate as conversion, 7, 27.

equity for re-conversion, in case of, 27.

of timber, proceeds of, 55.

appointment of receiver before, 58.

injunction after decree for, 59, 107.

plaintiff must disclose grounds for, 61.

if plaintiffs own a moiety, defendants must state grounds of objection, 61.

**SALE**—*continued.*

- when may be ordered without preliminary inquiries, 62, 94.
  - judgment or order for, 62.
    - forms of order, 62.
  - plaintiff must prove his title, 63.
  - onus on defendant to resist, 64.
  - order for preliminary inquiries before, 64.
    - forms of order, 64, 68, 69.
  - chief clerk's certificate must be made before, 67, 98.
  - when may proceed, after reference for inquiry without coming back to court, 66, 68.
  - judgment on defendants undertaking to purchase, 70.
    - form of judgment, 70.
  - of part may be ordered, 73, 95.
    - form of judgment, 95.
  - power of court to allow parties to bid at, 74, 97, 139.
  - when all parties have leave to bid, solicitor will be appointed to conduct, 75.
  - plaintiff usually has conduct of, 74.
  - power to dispense with deposit by party purchasing at, 75.
  - party purchasing at, may set off value of his share, 76, 97.
  - order for, after advertisements for absent parties, 79, 142.
  - notice of, 84, 142.
  - payment into court of proceeds of, 80, 142.
  - distribution of proceeds of, 80, 137, 140.
  - application of Trustee Act, 1850, to absent parties, 79, 83, 139.
  - power of court to make vesting order or to appoint person to convey estate, 84.
  - application of Settled Estates Act as to proceeds of, 90, 107.
  - effect of incorporation of Act, 91.
  - purchase-money to be paid into court or to trustees, 90, 137.
  - investment of money, 91, 138.
  - equity for re-conversion, 91.
  - proceeds of, not cash under control of court, 91.
  - cannot be ordered after decree for partition, 94.
  - further consideration, 99.
  - costs of, 109, 140.
    - are within absolute discretion of judge, 112.
    - may be made lien on proceeds, 114.
  - successive sales in same action, 143.
- See also* PARTITION and PARTITION ACTS.

SECURITIES for investment, 91.

SERVICE,

on absent or unknown parties may be dispensed with, 77,  
141.

advertisement in lieu of, 80, 142.

SET-OFF of value of share by party having leave to bid, 76.

SEVERANCE of estate not affected by partition of profits, 21.

SHARES, majority may undertake to purchase, at a valuation, 41,  
70.

SOLICITOR appointed to conduct sale when all parties have leave  
to bid, 75.

STOCK, definition of, under Trustee Act, 1850 . . 123.

T.

TENANT, account by, 45.

TENANT BY CURTESY, entitled to partition, 23.

TENANT FOR LIFE, right of, to partition not affected, though  
estate determinable on contingency, 22.

TENANTS IN COMMON,

were compellable to make partition before 1868 . . 14.

action of account by, 48.

TENANTS IN OCCUPATION.

account by, 45.

will be restrained from waste, 59.

TIMBER, account of proceeds of sale of, 55.

TITLE,

of plaintiff must be proved, 63.

of reversioner cannot be cured by acquiring estate, 23.

TRUST, definition of, under Trustee Act, 1850 . . 124.

TRUSTEE. *See* TRUSTEE ACT, 1850.

TRUSTEE ACT, 1850,

incorporated into Partition Act, 1868 . . 83, 139.

object of incorporation, 83.

incorporated into Partition Act, 1876 . . 86, 142.

powers of, are available to get in legal estate, 60, 83.

any of the parties may be declared trustees within, 83.

power of court in case of infant trustees, 85, 126.

where trustee dead or out of jurisdiction, 85, 128.

provisions as to vesting orders, 86, 129.

costs under, 86, 134.

effect of, upon rights of infants, 88.

interpretation clause of, 122.

TRUSTEE EXTENSION ACT, 1852, provision in case of trustee's neglect or refusal to convey, 86, 136.

## V.

UNASCERTAINED PERSONS, 88.

UNBORN CHILDREN,

interests of, protected by Trustee Act, 1850 . . 84, 130.

meaning of, under Trustee Act, 1850 . . 88.

UNDERTAKING to purchase share, 41, 69.

UNDIVIDED SHARE,

owner of, entitled to partition, 23.

effect of Trustee Act, 1850, upon, 81.

reversioner of, not entitled to partition, 22.

occupier of, is liable to account, 48.

UNSOUND MIND,

person of, not so found, cannot sue for partition, 23, 101.

request for sale may be made on behalf of, 26.

cannot deal with real estate by next friend without proceedings in lunacy, 26, 101.

## V.

VALUATION, undertaking to purchase shares at, 41, 69.

VESTING ORDER,

power of court to make, 84.

provision in favour of purchasers as to validity of, 86.

## W.

WASTE by tenant in possession will be restrained, 59.

WILL, construction of, by consent, 106.

WRIT OF PARTITION, at common law, 9.

THE END.



A  
**Catalogue**  
OF  
**LAW WORKS**  
PUBLISHED BY  
**MESSRS. BUTTERWORTH,**  
**Law Booksellers and Publishers**



TO THE QUEEN'S MOST EXCELLENT MAJESTY  
AND TO  
H.R.H. THE PRINCE OF WALES.

---

*"Now for the Laws of England (if I shall speak my opinion of them without partiality either to my profession or country), for the matter and nature of them, I hold them wise, just and moderate laws: they give to God, they give to Cæsar, they give to the subject what appertaineth. It is true they are as mixt as our language, compounded of British, Saxon, Danish, Norman customs. And surely as our language is thereby so much the richer, so our laws are likewise by that mixture the more complete."*—LORD BACON.

---

LONDON:  
7, FLEET STREET, E.C.  
1877.

# Index to Catalogue.

	PAGE
Accounts,	
<i>Selectors</i> , Coombs ...	32
<i>Law of</i> , Pulling ...	45
Actions at Law,	
Browne ...	46
Kerr ...	44
Lush ...	18
Williams ...	38
Administration Bonds,	
Chadwick ...	7
Admiralty,	
<i>Practice</i> , Coote ...	18
<i>Prize Law</i> , Lushington ...	31
Advowsons,	
Mirehouse ...	47
Agricultural Holdings,	
Bond ...	7
Aliens, Cutler ...	35
Appeals, Lords,	
Denison & Scott ...	5
Arbitrations, Redman ...	39
Arbitrations (Masters and Workmen),	
Lovely ...	46
Articled Clerk,	
Examination Journal ...	42
<i>Handy Book</i> , Mosely ...	26
<i>Student's Guide</i> , Benham ...	43
Attachment,	
<i>Foreign</i> , Brandon ...	37
Average, General,	
Cramp ...	29
Awards, Redman ...	39
Banking, Grant ...	33
Keyser ...	46
Bankruptcy,	
Bulley & Bond ...	39
<i>County Courts</i> , Davis ...	9
<i>Index</i> , Linklater ...	45
Robson ...	14
Bar, Pearce ...	43
Smith ...	38
Bar Examination	
Journal ...	43
<i>Kalendar</i> , Shaw ...	48
Barbados, Law of ...	44
Belligerents,	
Hamel ...	44
Phillimore ...	24
Bengal Code,	
<i>Regulations of the Field</i> ...	41
Bills of Exchange,	
Grant ...	33
Bills of Sale, Hunt ...	36
Blackstone, Stephen's ...	5
Blockade, Deane ...	45

	PAGE
Bookkeeping, Solicitors',	
Coombs ...	32
Boundaries, Hunt ...	15
Brokers, Keyser ...	46
Burgesses' Manual,	
Gaches ...	37
Canal Traffic, Powell ...	39
Carriers,	
<i>Inland</i> , Powell ...	39
<i>Railway</i> , Shelford ...	12
Chamber Practice,	
<i>Common Law</i> , Parkinson ...	41
Chancery Division,	
Forms, Drewry ...	8
Chancery Practice,	
Goldsmith ...	21
Hunter ...	15
<i>Drafting</i> , Lewis ...	21
Channel Islands,	
Bowditch ...	45
Le Cras ...	45
Charitable Trusts,	
Tudor ...	23
Chart of Descents,	
Fearn ...	46
Hindu, of Inheritance ...	46
Church Building,	
Tower ...	34, 47
Church Seats, Heales ...	37, 47
Circumstantial Evidence, Wills ...	33
Civil Law,	
Tomkins and Jencken ...	23
Civil Service Exam.,	
(Indian), Cutler ...	44
Claims and Defences,	
Forms of, Drewry ...	8
Code, English Law,	
Blaxland ...	46
Collieries, Bainbridge ...	12
Commentaries,	
Phillimore's, International ...	24
Stephen's Blackstone's ...	5
Commercial,	
Forms, Crabb ...	25
<i>Law</i> , Chitty ...	46
<i>Treatise</i> , Hertslet ...	33
Common Form Practice,	
Coote ...	7
Common Law,	
<i>At Chambers</i> , Parkinson ...	44
<i>Costs</i> , Gray ...	44

	PAGE
Common Law—cont.,	
<i>Pleading</i> ,	
Chitty, Jun. ...	27
Greening ...	45
Williams ...	38
<i>Practice</i> ,	
Dixon ...	18
Kerr ...	44
Lush ...	18
Companies, Shelford ...	12
Compensation, Law of	
Ingram ...	35
Shelford ...	12
Consolidation Acts,	
Shelford ...	28
<i>Criminal</i> , Davis ...	39
Conspiracy,	
Davis ...	6
<i>Law of</i> , Wright ...	36
Constitution, May ...	11
Stephen ...	5
Constitutional History,	
Fulton ...	34
Contentious Business,	
Tristram ...	48
Contraband of War,	
Moseley ...	45
Contracts,	
<i>Specific Performance</i> ,	
Fry ...	36
Pothier ...	46
Contributories, Collier ...	40
Conveyancing,	
<i>Introduction to</i> ,	
Lewis ...	21
<i>Practice</i> ,	
Harry ...	20
House ...	16
Smith ...	38
Tudor ...	22
Forms,	
Ball ...	22
Harry ...	20
Christie ...	25
Crabb ...	25
Kelly ...	27
Rouse ...	16
Shelford ...	23
Convictions (Summary),	
<i>Synopsis of</i> , Oke ...	30
Forms, Oke ...	30
Co-operative Societies,	
Brabrook ...	27
Copyholds,	
<i>Infranchisement</i> , Rouse ...	26
<i>Law of</i> , Scriven ...	28
Coroner, Baker ...	45
Corporations,	
<i>Municipal</i> , Gaches ...	37
<i>In General</i> , Grant ...	27

	PAGE		PAGE		PAGE
Costs, <i>Law of.</i> Gray ...	44	Evidence,		Indian Statute Law.	
County Courts, Davis ...	9	<i>Circumstantial.</i> Wills ...	33	Field ...	41
<i>Rules and Acts, 1875.</i>		<i>County Court.</i> Davis ...	9	Industrial & Provident	
Davis ...	9	<i>Law of.</i> Powell ...	6	Societies, Hrabrook ...	27
<i>Equity and Bankruptcy.</i>		<i>Wills.</i> Wigram ...	40	Inheritance, Indian	
Davis ...	9	Examinations,		Chart of, Field ...	46
Criminal Law, Davis ...	39	<i>Preliminary.</i>		Inns, <i>Law of.</i> Oke ...	31
Oke ...	30	Benham ...	43	Institutes of Public and	
Crutes, Field ...	47	<i>Journals</i> ...	42, 43	Private Law.	
Customs Laws, Hamel ...	17	<i>Intermediate and Final.</i>		Nasmith ...	14
Deeds, Tudor ...	22	Mosely ...	26	Insurance, Marine.	
Defences in Chancery.		Fences, Hunt ...	15	Crump ...	29
Drewry ...	8	Final Examination.		Intermediate Exami-	
Descents, Fearn ...	46	<i>Judicature Acts.</i>		nation,	
Dictionary, Law.		Bedford ...	19	<i>Guide.</i> Bedford ...	19
Mozley & Whiteley ...	8	<i>Probate and Divorce.</i>		<i>Journal</i> ...	42
Digest,		Bedford ...	19	International Law.	
<i>House Lords Cases.</i>		Fisheries, <i>Salmon.</i> Bund ...	17	Hamel ...	41
Clark ...	20	Oke ...	48	Hertslet ...	33
<i>Patent Cases.</i>		Foreign Attachment.		Phillimore ...	24
Higgins ...	11	Brandon ...	37	Jersey ( <i>Law of</i> ).	
Discovery of Evidence.		Foreshores.		Bowditch ...	45
Hare ...	21	Hunt ...	15	Le Cras ...	45
Divorce.		Williams v. Nichol-	44	Joint Stock.	
<i>Final Examination.</i>		son ...		Banks, Grant ...	33
Bedford ...	19	Forms,		Companies, Shelford ...	12
<i>Practice.</i> Browning ...	38	<i>Conveyancing.</i> Barry ...	20	Judicature Acts.	
Domestic Servants.		Crabb ...	25	Bedford ...	19
Baylis ...	29	Rouse ...	16	Chute ...	23
Drafting, Equity.		<i>County Courts.</i> Davis ...	9	Drewry ...	8
Lewis ...	21	<i>Magisterial.</i> Oke ...	31	Rogers ...	17
Draftsman (The)		<i>Probate.</i> Chadwick ...	7	Trower ...	13
Kelly ...	27	Formulist, Magisterial.		Webb ...	22
Drainage.		Oke ...	30	Jurisprudence.	
Woolrych ...	27	Frands, Hunt ...	36	<i>Form of Law.</i> Holland ...	37
Wilson ...	44	Friendly Societies.		Webb ...	22
Easements, Latham ...	34	Brabrook ...	27	Justice of Peace, Oke ...	30
Ecclesiastical,		Gains' Roman Law ...	38	Kalendar, Bar. Shaw ...	43
<i>Practice.</i> Coote ...	47	Game Laws, Oke ...	31, 48	Labour Laws, Davis ...	6
<i>Judgments.</i>		Gaming, Edwards ...	46	Landlord and Tenant.	
Burder v. Heath ...	47	Gas Companies Acts. ...	36	Fawcett ...	13
Gorham v. Bp. of Exeter ...	47	Gavelkind.		Law Dictionary.	
Hebbert v. Purchas ...	47	Robinson ...	46	Mozley & Whiteley ...	8
Long v. Bp. Cape Town ...	47	General Average.		Law and Equity, Chute ...	23
Martin v. Macdonochie ...	47	Crump ...	29	Law Exam. Journal ...	42
Westerton v. Liddell ...	47	Guarantees, De Colyar ...	14	Law Pamphlets. 41, 45,	
Election,		Health, Public.		46, 47	
<i>Law.</i> Davis ...	26	Glen ...	37	Law Studies, Mosely ...	26
Elementary Law.		Highways, Glen ...	48	Smith ...	38
Francillon ...	44	History, Constitutional.		Stephen's Blackstone ...	5
Mosely ...	26	Fulton ...	34	Leading Cases.	
Enfranchisement, Copy-		House of Lords,		<i>Real Property.</i> Tudor ...	22
holds, Rouse ...	26	<i>Appeals.</i> Denison and		Leases, Crabb ...	23
England,		Scott ...	5	Rouse ...	16
<i>Laws of.</i> Blackstone ...	5	<i>Practice.</i> May ...	11	Legacy Duties, Shelford ...	26
Stephen ...	5	<i>Digested Index to Cases.</i>		Libel, Starkie, Folkard ...	13
English Bar, Pearce ...	43	Clark ...	20	Licensing Laws, Oke ...	32
Smith ...	38	Idiots, Phillips ...	16	Life Assurance.	
English Law.		Income Tax Laws.		Blayney ...	46
Blaxland ...	46	Dowell ...	40	Local Government.	
Equity,		Indian Civil Service		Glen ...	48
<i>Doctrine and Practice of.</i>		Exam. Cutler ...	44	Lord Mayor's Court.	
Goldsmith ...	21	Indian Penal Code.		Brandon ...	37
Roberts ...	10	Cutler and Griffin ...	41		
<i>Draftsman.</i> Lewis ...	21				
<i>Equity and Law.</i> Chute ...	23				
<i>Pleader.</i> Drewry ...	44				
<i>Prevalence of.</i> Trower ...	13				
<i>Suit in.</i> Hunter ...	45				
See Chancery.					

	PAGE		PAGE		PAGE
Lords, House of, Appeals.		Precedents,		Sea Shore. Hunt ...	15
Denison & Scott ...	5	Conveyancing. Crabb ...	25	Servants. <i>Law of.</i> Baylis ...	29
Cases, Clark ...	20	Rouse ...	16	Davis ...	6
Lamaey. Phillips ...	16	Mortgage. Fisher ...	48	Settlements,	
Magisterial Law,		Pleading Chitty ...	27	Voluntary. Rouse ...	16
Acts, Davis ...	39	Preliminary Examination		Sewers. Woolrych ...	27
Practice, Oke ...	30	Journal ...	43	Sheriff. Sewell ...	46
Forms, Oke ...	30	Principal and Surety.		Short Hand. Gurney ...	45
Marine Insurance.		De Colyar ...	14	Slander, Starkie. Folkard ...	13
Crump ...	29	Priority.		Solicitors' Bookkeeping.	
Maritime Warfare.		Fisher ...	48	Coombs ...	32
Deane ...	45	Private Bills.		Specific Performance.	
Hamel ...	41	Clifford & Stephens ...	41	Fry ...	36
Masters and Servants.		May ...	11	Stamp Laws. Dowell ...	40
Baylis ...	29	Private Law (English).		Standing Orders. May ...	11
Davis ...	6	Nasmith ...	14	Statutes, Table of Lead-	
Masters and Workmen.		Privilege, Parliamentary.		ing. Bedford ...	19
Lovesy ...	46	May ...	11	Stock Exchange. Grant ...	33
Matrimonial Causes.		Privy Council Practice.		Keyser ...	46
Browning ...	38	Admiralty. Coote ...	18	Students' Examination	
Mercantile Accounts.		Prize Law. Lushington ...	31	Guide. Mosely ...	26
Pulling ...	45	Probate,		Succession Duty.	
Mercantile Law.		Final Examination.		Shelford ...	26
Chitty ...	46	Bedford ...	19	Summary Convictions.	
Accounts. Pulling ...	45	Common Form. Coote ...	7	Oke ...	30
Mines and Minerals.		Contentious. Tristram ...	48	Snit in Equity. Hunter ...	45
Bainbridge ...	12	Forms. Chadwick ...	7	Surety, Principal and.	
Mortgages. Fisher ...	10	Duties. Shelford ...	26	De Colyar ...	14
Rouse ...	16	Property Law, Questions		Tariff Act. Hamel ...	17
Municipal Law.		on. Aldred ...	20	Tenancies, Agricultural.	
Gaches ...	37	Property Tax Laws.		Bund ...	7
Grant ...	27	Dowell ...	40	Tenant, Landlord and.	
Naturalization. Cutler ...	35	Provident Societies.		Fawcett ...	13
Naval Prize.		Brabrook ...	27	Time Table. Bedford ...	19
Lushington ...	34	Public Health. Glen ...	48	Town Councillors Manual	
Negligence. Saunders ...	35	Public Law (English).		Gaches ...	37
Neutrals. Phillimore ...	24	Nasmith ...	14	Torts. <i>Law of.</i> Underhill ...	24
Ortolan's Roman Law ...	15	Quarries. Bainbridge ...	12	Trade Marks. Adams ...	15
Pamphlets, Law. 44, 45,		Railways. Shelford ...	28	Trades Unions. Brabrook ...	27
46, 47		Compensation. Ingram ...	33	Treaties and Tariffs.	
Parliamentary.		Carriers. Powell ...	39	Hertslet ...	33
Clifford & Stephens ...	41	Real Property.		Trusts, Charitable.	
Davis ...	26	Seaborne ...	20	Tudor ...	23
May ...	11	Tudor ...	22	Turnpike Laws. Oke ...	32
Parsonages. Trower ...	34	Chart. Fearn ...	46	Vendors & Purchasers.	
Partnership. Dixon ...	18	Referees' Court Practice.		Seaborne ...	20
Patent Cases.		Clifford & Stephens ...	41	Wagers. Edwards ...	46
Higgins ...	11	Registration. Davis ...	26	Water Companies Acts ...	36
Patents. Norman ...	41	Religion. Church & State ...	47	Waters. Hunt ...	15
Peerage Claims, Gardner.		Ritual. Bayford ...	47	Wills. Coote ...	7
Le Marchant ...	44	Bullock ...	47	Crabb ...	25
Petty Sessions. Oke ...	30	Hamel ...	47	Rouse ...	16
Pews. Heales ...	37, 47	Phillimore ...	47	Tudor ...	22
Pleading,		Roman Law.		Wigram ...	40
Common Law.		Galus ...	38	Winding-up. Collier ...	10
Chitty, Jun. ...	27	Ortolan ...	15	Grant ...	33
Greening ...	45	Tomkins ...	38	Shelford ...	12
Williams ...	38	Tomkins and Jencken ...	23	Window Lights. Latham ...	34
Equity. Drewry ...	44	Salmon Fisheries.		Wrongs. Underhill ...	21
Lewis ...	21	<i>Law of.</i> Bund ...	17		
		Savings Banks. Grant ...	33		
		Schools. Trower ...	34		

## Denison and Scott's House of Lords Appeal Practice.

Very nearly ready, in 1 vol., 8vo., cloth.

**APPEALS TO THE HOUSE OF LORDS:** Procedure and Practice relative to English, Scotch and Irish Appeals; with the Appellate Jurisdiction Act, 1876; the Standing Orders of the House; Directions to Agents; Forms, and Tables of Costs. Edited, with Notes, References, and a full Index, forming a complete Book of Practice under the New Appellate System. By CHARLES MARSH DENISON and CHARLES HENDERSON SCOTT, of the Middle Temple, Esqs., Barristers at Law.

## Stephen's New Commentaries.—Seventh Edition, 1874.

4 vols, 8vo., 4l. 4s. cloth; 5l. calf.

**MR. SERJEANT STEPHEN'S NEW COMMENTARIES ON THE LAWS OF ENGLAND**, partly founded on Blackstone. The Seventh Edition. By JAMES STEPHEN, Esq., LL.D., Judge of County Courts; late Professor of English Law at King's College, London, and formerly Recorder of Poole.

### Extract from the Preface to the Seventh Edition.

"The position of the work in reference to the Judicature Act, 1873, also seems to call for some remark, as the profession will naturally want to know whether the changes introduced by that important measure will be found embodied in the present edition. To this question I reply that the chief enactments of that Act will be found in these pages, and that I have explained their effect to the student throughout to the best of my ability."

*From the Law Journal.*

"It is unnecessary for us on this occasion to repeat the eulogy which six years ago (in 1868) we bestowed, not without just reason, on the Commentaries as they then appeared. It has been remarked that Stephen's Commentaries enjoy the special merit of being an educational work, not merely a legal text book. Their scope is so wide that every man, no matter what his position, profession, trade or employment, can scarcely fail to find in them matter of special interest to himself, besides the vast fund of general information upon which every Englishman of intelligence may draw with advantage."

*From the Solicitor's Journal.*

"A Work which has reached a Seventh Edition needs no other testimony to its usefulness. And when a law book of the size and costliness of these 'Commentaries' passes through many editions, it must be taken as established that it supplies a need felt in all branches of the profession, and probably to some extent, also, outside the profession. It is difficult indeed to name a law book of more general utility than the one before us. It is (as regards the greater part) not too technical for the lay reader, and not too full of detail for the law student, while it is an accurate and (considering its design) a singularly complete guide to the practitioner. This result is due in no small degree to the mode in which the successive editions have been revised, the alterations in the law being concisely embodied, and carefully interwoven with the previous material, forming a refreshing contrast to the lamentable spectacle presented by certain works into which successive learned editors have pitchforked headnotes of cases, thereby rendering each edition more unconnected and confusing than its predecessor. As the result of our examination we may say that the new law has, in general, been accurately and tersely stated, and its relation to the old law carefully pointed out."

*From the Law Times.*

"We have in this Work an old and valued friend. For years we have had the last, the Sixth Edition, upon our shelves, and we can state as a fact that when our text books on particular branches of the Law have failed us, we have always found that Stephen's Commentaries have supplied us with the key to what we sought, if not the actual thing we required. We think that these Commentaries establish one important proposition, that to be of thorough practical utility a treatise on English Law cannot be reduced within a small compass. The subject is one which must be dealt with comprehensively, and an abridgment, except merely for the purposes of elementary study, is a decided blunder."

"Of the scope of the Commentaries we need say nothing. To all who profess acquaintance with the English Law their plan and execution must be thoroughly familiar. The learned Author has made one conspicuous alteration, confining 'Civil Injuries' within the compass of one volume, and commencing the last volume with 'Crimes,'—and in that volume he has placed a Table of Statutes. In every respect the Work is improved, and the present writer can say, from practical experience, that for the Student and the Practitioner there is no better Work published than 'Stephen's Commentaries.'"

*From the Law Examination Journal.*

"What Bacon's works are to philosophy, Blackstone's Commentaries and Stephen's Commentaries, founded on Blackstone, are to the study of English Law. For a general survey of the entire field of English Law, or, at least, for a comparative survey of different branches of law, Stephen's Commentaries are unrivalled; and we may observe that these Commentaries should not be used merely as a book of reference, they should be carefully studied."

## Powell on Evidence. 4th Edition. By Cutler & Griffin.

Post 8vo., 18s. cloth; 22s. calf.

**POWELL'S PRINCIPLES AND PRACTICE OF THE LAW OF EVIDENCE.** Fourth Edition. By J. CUTLER, B.A., Professor of English Law and Jurisprudence, and Professor of Indian Jurisprudence at King's College, London; and E. F. GRIFFIN, B.A., Barristers at Law.

\*. \* This edition contains the alterations necessary to adapt it to the practice under the Judicature Acts, as well as other material additions. The Bankers' Books Evidence Act, 1876, is given as an Addendum to the Appendix of Statutes.

"The plan adopted is, we think, an admirable one for a concise, handy book on the subject. Such maxims as, that hearsay is inadmissible, are given at the head of the chapter in large type, and then follow the explanation and application of the general rule. The Indian code of evidence given at the end of the book deserves to be read by every student, whether going to India or not. The few rules of the English law of evidence which are purely statutory are also given verbatim, including the two orders of the Judicature Act, 1875, which appear to be correctly appreciated. The present form of Powell on Evidence is a handy, well-printed and carefully prepared edition of a book of deserved reputation and authority."

—*Law Journal*.

"The editors of this work put forward 'no claim to that exhaustiveness which other works dealing with the law of evidence aim at.' Their desire, on the contrary, is to 'adhere to the principle' of their author 'of not overloading the book with cases.' We heartily approve the principle; which, however, is somewhat difficult of application. We must add, however, that in most instances the cases are tersely abstracted, and the convenience of the reader is consulted by references to more than one set of reports. The plan of the book is to give pretty frequently, and, as far as we can discover, in almost every chapter, a 'rule' of general application, and then to group the cases round it. These rules or axioms are printed in a dis-

tinctive type. The work has been pruned and remodelled by the light of the Judicature Acts. The authors give in an appendix the Indian Evidence Acts, with some Indian decisions thereupon, and occasionally notice these acts in the text. (On the whole we think this is a good edition of a good book. It brings down the cases to the latest date, and is constructed upon a model which we should like to see more generally adopted.)"—*Solicitors' Journal*.

"We are informed in the preface that the results of the Judicature Acts as regards evidence have been duly noted, whilst the work itself has been rendered more comprehensive. It is an excellent summary of principles."—*Law Times*.

"There is hardly any branch of the law of greater interest and importance, not only to the profession, but to the public at large, than the law of evidence. We are, therefore, all the more inclined to welcome the appearance of the Fourth Edition of this valuable work."—*Law Examination Journal*.

"To the general practitioner the main value of the work must consist in its treatment of the law prevailing in this country (Ireland) and in England, and in this respect we confidently recommend the work to our readers. To the student we know of no work on the law of evidence we could more strongly recommend, and both branches of the profession will find Powell's Law of Evidence a work which can be consulted with confidence."—*Irish Law Times*.

## Davis's Labour Laws of 1875.

8vo., 12s. cloth.

**THE LABOUR LAWS OF 1875,** with Introduction and Notes. By J. E. DAVIS, of the Middle Temple, Esq., Barrister at Law, and late Police Magistrate for Sheffield.

"Mr. Davis says that his object has been to combine a popular comment with a strictly practical treatise. In this he has completely succeeded. The book is in every respect careful and thoughtful, it gives the best reading of the law which we have, and furnishes in *extenso* all the Acts of Parliament relating to the subject."—*Law Times*.

"Mr. Davis's book is not a reprint of the acts with a few notes, but an original and complete treatise, and it will be appreciated by those who are concerned in the working of the labour laws."—*Law Journal*.

"The Labour Laws' are the subject of a treatise by Mr. J. E. Davis which magistrates and practitioners will find useful."—*Daily News*.

"A good book on this subject should fulfil two distinct functions by no means easy to combine. It should afford a clear and untechnical explanation of the law for the benefit of the magistrates who will have to administer, and it should also contain a careful and accurate commentary on the law for the benefit of lawyers. Mr. Davis has, in our opinion, successfully fulfilled both these requisites. Mr. Davis may be congratulated upon having

produced a book which will probably become the standard work on this important subject."—*Solicitors' Journal*.

"The work will undoubtedly increase the reputation of the author, and may be regarded as essential to all who have to administer the law."—*Capital and Labour*.

"The work is intended to be, and no doubt will become a text-book for the profession and for those who will have to administer the law."—*Recherches*.

"The best exposition that we know of, of the Labour Laws of the country."—*Echo*.

"A new and important work on the Labour Laws. Mr. Davis's special knowledge of these statutes eminently fits him for the work."—*Sheffield Daily Independent*.

"We can only assure our readers that we conscientiously estimate the work as one upon the possession of which they will congratulate themselves."—*Irish Law Times*.

"There is much information in the Labour Laws of 1875 which is of importance to ironmasters, colliery proprietors and all employers of manual labour, and to them we recommend Mr. Davis's book with confidence."—*London Iron Trade Exchange*.

## Coote's Probate Practice.—Seventh Edition.

In 1 vol., 8vo., 25s. cloth; 29s. calf.

**THE COMMON FORM PRACTICE OF THE HIGH COURT OF JUSTICE IN GRANTING PROBATES AND ADMINISTRATIONS.** By HENRY CHARLES COOTE, F.S.A., late Proctor in Doctors' Commons, Author of "The Practice of the Ecclesiastical Courts," &c., &c.

\* \* \* *The Forms as printed in this work are in strict accordance with the Orders of Court and Decisions of the Right Hon. Sir James Hannen, and are those which are in use in the Principal Registry of the Probate Divisional Court.*

"In less than twenty years the work has reached a seventh edition, and this new edition finds its *raison d'être* in the changes introduced by the Judicature Acts. Mr. Coote has set forth so much of the recent legislation as merged the Court of Probate in the High Court of Justice, and has explained the effects of such legislation as regards the subject matter of his book. He has also amended his forms in obedience to the new law. The edition, so far as Common Form Business is concerned, maintains the reputation of the work, and in the present day, when every solicitor conducts probate business, will doubtless command the same popularity as those editions which have preceded it."—*Law Journal*.

"The above is another name for what is commonly known to the profession as Coote's Probate Practice, a work about as indispensable in a solicitor's office as any book of practice that is known to us. The seventh edition is chiefly distinguishable from the sixth edition in this, that certain important modifications and alterations are effected which have been rendered necessary by the Judicature Acts. Judicial decisions subsequent to the last edition have been carefully noted up. We notice several new and useful forms; and the author has not only attempted, but has in the main succeeded, in adopting the forms and directions under the old probate practice, as

embodied in previous editions of the work, to the new procedure under the Judicature Acts. Solicitors know that the difficulties in the way of satisfying the different clerks at Somerset House are frequently great, and there is nothing so likely to tend to simplicity of practice as Mr. Coote's book."—*Law Times*.

"Nearly five years have elapsed since the publication of the last edition of this book, which has long held a high reputation amongst solicitors, but we find little change in its contents. The Judicature Acts, which have rendered obsolete so many works of practice, have left this almost untouched. The chief changes in this edition appear to be the alteration of the headings of many of the forms; the insertion of several new cases and of some of the judgments of Dr. Hettesworth, of the fees to be taken by solicitors and paid to the Court in common form business as directed by the Rules of 1874; and a considerable increase in the number of forms in non-contentious business."—*Solicitors' Journal*.

"In 1858 Mr. Coote published a first attempt to explain the principles which were to regulate the Common Form Practice of the then new Court of Probate. Very welcome, indeed, therefore, was his opportune book of practice, and its utility has been significantly proved by the fact that we have the sixth edition now before us."—*Law Magazine*.

## Chadwick's Probate Court Manual, corrected to 1876.

Royal 8vo., 12s. cloth.

**EXAMPLES of ADMINISTRATION BONDS for the COURT of PROBATE;** exhibiting the Principle of various Grants of Administration, and the correct Mode of preparing the Bonds in respect thereof; also Directions for preparing the Oaths, arranged for practical utility. With Extracts from the Statutes; also various Forms of Affirmation prescribed by Acts of Parliament, and a Supplemental Notice, bringing the work down to 1865. By SAMUEL CHADWICK, of Her Majesty's Court of Probate.

"We undertake to say that the possession of this volume by practitioners will prevent many a hitch and awkward delay, provoking to the lawyer himself and difficult to be satisfactorily explained to the clients."—*Law Magazine*.

"This is purely a book of practice, but therefore the more valuable. It tells the reader what to do, and that is the information most required after a lawyer begins to practise."—*Law Times*.

## Bund's Agricultural Holdings Act, 1875.

Demy 12mo., 5s. cloth.

**THE LAW OF COMPENSATION FOR UNEXHAUSTED AGRICULTURAL IMPROVEMENTS,** as amended by the Agricultural Holdings (England) Act, 1875. By J. W. WILLIS BUND, M.A., of Lincoln's Inn, Barrister at Law, Author of "The Law relating to Salmon Fisheries in England and Wales," &c.

"It will be found very serviceable to all those who have to administer the Agricultural Holdings Act."—*Daily News*.

"A more complete volume never came under our notice."—*Worcester Herald*.

"It contains clear statements and explanations."—*Chamber of Agriculture Journal*.

"Mr. Bund's book is a useful work for land agents."—*Estates Gazette*.

"All who have any interest in landed property may read it to advantage."—*Land and Water*.

"We hope that this little book may be of service to the classes for whose use it has been specially designed."—*The Field*.

"Mr. Willis Bund has compressed into a simple and convenient form, the information needful for understanding the bearing of the Agricultural Holdings Act."—*Saturday Review*.

"We may congratulate Mr. Bund on having laid the law down very clearly to the lay mind."—*Gardener's Chronicle*.

## Drewry's Forms of Claims and Defences in Chancery.

Just published, post 8vo., 2s. cloth.

**FORMS OF CLAIMS and DEFENCES** in the COURTS of the CHANCERY DIVISION of the HIGH COURT OF JUSTICE. With Notes containing an Outline of the Law relating to each of the subjects treated, and an Appendix of Forms of Endorsement on the Writ of Summons. By C. STEWART DREWRY, of the Inner Temple, Esq., Barrister at Law, Author of a Treatise on Injunctions and of Reports of Cases in Equity, temp. Kindersley, V.-C., and other works.

"Mr. Drewry has attempted to supply the defect of the Schedule to the Judicature Act of 1875, and he has proceeded in his work in the safest and most satisfactory manner. The forms thus introduced are concise and cannot fail to be very useful and welcome."—*Law Magazine*.

"Mr. Drewry's plan of taking the facts for the forms from reported cases and adapting them to the new rules of pleading, seems the best that can be adopted. The forms we have looked at seem to be fairly correct."—*Solicitors' Journal*.

"The draftsman of the present day cannot but need the aid of a work thus compiled, however experienced in the niceties of the past system, and trusting to its guidance benefit in time and labour saved; while to the younger members of the profession especially we cordially recommend the work."—*Irish Law Times*.

"The work is one likely to prove useful to the practitioner."—*Justice of the Peace*.

"On the whole, we can thoroughly recommend it to our readers."—*Law Examination Journal*.

## Mozley and Whiteley's Concise Law Dictionary.

In 1 vol. 8vo., 20s. cloth; 25s. brown calf.

**A CONCISE LAW DICTIONARY**, containing Short and Simple Definitions of the Terms used in the Law. By HERBERT NEWMAN MOZLEY, M.A., Fellow of King's College, Cambridge, and of Lincoln's Inn, Esq., and GEORGE CRISPE WHITELEY, M.A. Cantab., of the Middle Temple, Esq., Barristers at Law.

"Messrs. Mozley & Whiteley, by the wording of their title page, seem to have set brevity before them as the special feature of their work, which is comprised within little more than 500 pages. As a handy-book for the desk, and as containing general accuracy with brevity, we have no doubt that Messrs. Mozley & Whiteley's Concise Law Dictionary will meet with a large amount of favour."—*Law Magazine*.

"This book is a great deal more modest in its aims than the law dictionary we received a little while ago. Its main object is to explain briefly legal terms both ancient and modern. In many cases, however, the authors have added a concise statement of the law. But as the work is intended both for lawyers and the public at large, it does not profess to give more than an outline of the doctrines referred to under the several headings. Having regard to this design, we think the work is well and carefully executed. It is exceedingly complete."—*Solicitors' Journal*.

"This book contains a large mass of information more or less useful. A considerable amount both of labour and learning has evidently been expended upon it, and to the general public it may be recommended as a reliable and useful guide. Law students desirous of cramming will also find it acceptable."—*Law Times*.

"The authors of the above work do not profess to address themselves solely to the members of the legal profession; their object has been to produce a book which shall also be useful to the general public by giving clear yet concise explanations of the legal terms and phrases in past and present use, and we think they have satisfactorily performed their task."—*Justice of the Peace*.

"It should contain everything of value to be found in the other larger works, and it should be useful, not merely to the legal pro-

fession but also to the general public. Now the work of Messrs. Mozley and Whiteley appears to fulfil those very conditions, and while it assists the lawyer will be no less useful to his client. On the whole, we repeat that the work is a praiseworthy performance, which deserves a place in the libraries both of the legal profession and of the general public."—*Irish Law Times*.

"The Concise Law Dictionary, by Mr. H. Mozley and Mr. G. Whiteley, is not only concise but compendious, and is well adapted for those who desire to refresh the memory or obtain a succinct explanation of legal terms without going through a mass of details."—*Saturday Review*.

"The book contains much useful information, and as the price is moderate, and the ordinary terms of English law appear to be well explained, we may conscientiously recommend the Concise Law Dictionary to the young lawyer and student."—*Athenaeum*.

"This work will supply a want felt by many, as well among law students as the general public, of an explanatory index of legal terms and phrases, complete to the present time, and at the same time moderate in bulk. To such, too, it may be recommended for its many concise supplementary expositions of the law bearing upon the subject-matter of many of the titles indexed."—*Nonconformist*.

"In many cases its greater brevity is an advantage, enabling the book to be consulted with more rapidity and promptitude."—*Daily News*.

"The compilers being scholars and gentlemen, have taken pains and made their book a valuable one, of which we can prophesy new and even improved editions."—*Publishers' Circular*.

"An extremely handy book of reference as to the meaning of legal terms and phrases."—*Bookeller*.

## Davis's County Court Rules and Acts of 1875 and 1876.

Just published, 8vo., 16s. cloth.

THE COUNTY COURT RULES, 1875 and 1876, with Forms and Scales of Costs and Fees; together with the County Courts Act, 1875, the Agricultural Holdings Act, 1875, and the Provisions of the Friendly Societies Act, 1875, and of other recent Statutes affecting the Jurisdiction of the County Courts. Forming a SUPPLEMENT to DAVIS'S COUNTY COURT PRACTICE AND EVIDENCE.

"The sweeping alterations in procedure and in substantive matters of law compelled Mr. Davis either to prepare a new edition of his work or to edit a Supplement. He has chosen the latter course. Such disadvantages as are inherent to a Supplement he has reduced to a minimum by numerous references and a full Index to the whole work. Some notion can be gained of the extent of the new matter with which Mr. Davis had to deal from the fact that the volume before us contains, exclusively of the Index, 326 pages of matter. First is given the text of the County Courts Act, 1875, with notes; then follows an analysis of several acts, among which are the Public Health Act, the Judicature Act, 1875, the Friendly Societies Act, the Employers and Workmen Act and the Agricultural Holdings Act; after which the Rules of 1875 and of the present year, with Forms, Table of Costs, Court Fees, and the like, are printed *in extenso*. The volume is in a neat and handy form and well adapted for general use."—*Law Journal*, April 15, 1876.

"We have here, in good type and conveniently arranged, all the new legislation, whether parliamentary or judicial, relating to County Courts. The book opens with the Act of last session, shortly annotated; then follow the portions of other Acts passed last session which relate to County Courts; and, after these, the Consolidated Rules issued last year, and the new rules which came in force on Monday last. A very full Index is added, containing references, not only to the present

volume, but also to the work to which it is intended as a supplement."—*Solicitors' Journal*, April 8, 1876.

"Mr. Davis has published a Supplement to his work on County Court Practice and Evidence, which supplies the County Court Rules of 1875 and 1876: The County Court Act, 1875, and other recent statutes affecting the jurisdiction of the County Courts. The number of statutes affecting County Courts passed in 1874-5 is certainly formidable, and required to be brought at once to the notice of practitioners. This Mr. Davis does in a form which has thoroughly recommended itself to the profession. The voluminous Index will form an excellent guide to the legislation as well as to the rules and orders."—*Law Times*, April 29, 1876.

"We will merely content ourselves with pointing out that the additions and changes, as regards County Courts Jurisdiction, have been very great and important, and that this volume indicates them in a well arranged and convenient form. Its issue has been wisely delayed so as to include the Rules of 1876."—*Law Magazine*, August, 1876.

"The result of his labours cannot fail to prove abundantly useful to practitioners, who will find that this work supplies, in a collected form, the entire legislation of 1874-5 affecting the County Courts and the Rules of 1875-6, with the new Scale of Costs, &c. The work, in our opinion, deserves the favourable consideration of the profession."—*Irish Law Times*, May 20, 1876.

## Davis's County Courts Practice and Evidence.

Fifth Edition. 8vo., 38s. cloth, 43s. calf.

THE PRACTICE AND EVIDENCE IN ACTIONS IN THE COUNTY COURTS. By JAMES EDWARD DAVIS, of the Middle Temple, Esq., Barrister at Law. Fifth Edition.

\*.\* This is the only work on the County Courts which gives Forms of Pleadings and treats fully of the Law and Evidence in Actions and other Proceedings in these Courts.

"We believe Mr. Davis's is the best and newest work on County Court Practice."—*Law Times*.

"Mr. Davis's works are all conspicuous for clearness and accuracy. The present edition will fully sustain the well-earned reputation of the work."—*Solicitors' Journal*.

"It is hardly necessary for us to sum up in favour of a book which is so popular that the several editions of it pass rapidly out of print. All we need say is, that the verdict of the purchasing public has our entire approbation."—*Law Journal*.

## Davis's Equity, Bankruptcy, &c. in the County Courts.

8vo. 18s. cloth, 22s. calf.

THE JURISDICTION and PRACTICE of the COUNTY COURTS in EQUITY, ADMIRALTY, PROBATE and ADMINISTRATION CASES, and in BANKRUPTCY. By J. E. DAVIS, of the Middle Temple, Esq., Barrister at Law.

\*.\* This work, although issued separately, forms a Supplementary or Second Volume to Davis's County Courts Practice and Evidence in Actions.

## Roberts's Principles of Equity.—Third Edition.

Just published, 8vo., 18s. cloth.

THE PRINCIPLES OF EQUITY as administered in the Supreme Court of Judicature and other Courts of Equitable Jurisdiction. By THOMAS ARCHIBALD ROBERTS, of the Middle Temple, Esq., Barrister at Law. Third Edition.

"The work will be found to abound in useful summaries of the leading doctrines in equity, and the student and practitioner may safely rely on finding this work executed with great experience and knowledge of the subject, which are, indeed, the only sure foundation for a work of this kind calculated to be useful."—*Judge of the Peace*.

"This work, by a member of the bar, will meet a want which must have been felt by every student of equity since the passing of the Judicature Acts. Mr. Roberts's work is

more extensive than Mr. Josiah Smith's, as well as more readable. The Table of Statutes is especially valuable."—*Law Examination Journal*, April, 1877.

"The work, we have no doubt, will prove useful to the profession, but more especially to the student class of our readers, and we cordially recommend it to them. It runs to less than 500 pages; it is printed upon good paper and in good type, and it has the very satisfactory guarantee that it is now in its third edition."—*Law Journal*, April 2, 1877.

## Fisher's Law of Mortgage.—Third Edition.

Just published. 2 vols. Royal 8vo., 60s. cloth; 72s. calf.

THE LAW OF MORTGAGE AND OTHER SECURITIES UPON PROPERTY. By WILLIAM RICHARD FISHER, of Lincoln's Inn, Esq., Barrister at Law.

"This work has built up for itself, in the experienced opinion of the profession, a very high reputation for carefulness, accuracy and lucidity. This reputation is fully maintained in the present edition. The law of securities upon property is confessedly intricate, and probably, as the author justly observes, embraces a greater variety of learning than any other single branch of the English law. At the same time an accurate knowledge of it is essential to every practising barrister, and of daily requirement among solicitors. To all such we can confidently recommend Mr. Fisher's work, which will, moreover, prove most useful reading for the student, both as a storehouse of information and as an intellectual exercise."—*Law Magazine*, May, 1877.

"Those who are familiar with the work know that it is never prolix, that it is accurate and complete; and we think that the present edition will not diminish its reputation in these respects. On subjects upon which we have examined it we have found the cases diligently collected and carefully stated, and the effect of the new legislation very concisely given. The various points upon which the Judicature Act has a bearing on Mr. Fisher's subject are very well annotated, and not only on this subject, but as the general result of an examination of this edition, we can say that it contains evidence of unremitting care and industry."—*Solicitors' Journal*.

"His work has long been known as the standard work on the law of mortgages, and he has now published his third edition. The object and scope of his work is probably familiar to most of our readers. It is, as the author him-

self says, 'to explain the nature of the different kinds of securities, the rights and equities which they create, and the manner of and circumstances attending their discharge.' The earlier parts of the work have been recast and now appear in the language and arrangement used in the completed part of the 'Digest of the Law of Mortgage and Lien,' which Mr. Fisher designed and executed for the Digest Commission. This system of classification, by adoption of comprehensive and formally stated propositions, is the right mode of framing a work of this nature, and the present edition of Mr. Fisher's work is, without doubt, a vast improvement on the last edition. The form and style admit of little exception. The work is not much enlarged in bulk; but, besides the new statutes and decisions relating to the subject, the author has added a great number of references to contemporary reports not formerly cited. In conclusion we may compliment Messrs. Butterworths on the excellent type and correct printing of these volumes, and the handsome and convenient style in which they have been got up."—*Law Journal*.

"We have received the third edition of the Law of Mortgage, by William Richard Fisher, Barrister at law, and we are very glad to find that vast improvements have been made in the plan of the work, which is due to the incorporation therein of what Mr. Fisher designed and executed for the abortive Digest Commission. In its present form, embracing as it does all the statute and case law to the present time, the work is one of great value."—*Law Times*.

**Sir T. Erskine May's Parliamentary Practice.—7th Edit.**

One very thick volume 8vo., 40s. cloth; 45s. calf.

**A TREATISE on the LAW, PRIVILEGES, PROCEEDINGS and USAGE of PARLIAMENT.** By Sir THOMAS ERSKINE MAY, D.C.L., K.C.B., Clerk of the House of Commons and Benchler of the Middle Temple. Seventh Edition, Revised and Enlarged.

**CONTENTS:—**Book I. Constitution, Powers and Privileges of Parliament.—Book II. Practice and Proceedings in Parliament.—Book III. The Manner of Passing Private Bills, with the Standing Orders in both Houses, and the most recent Precedents.

"A work, which has risen from the position of a text book into that of an authority, would seem to a considerable extent to have passed out of the range of criticism. It is quite unnecessary to point out the excellent arrangement, accuracy and completeness which long ago rendered Sir T. E. May's treatise the standard work on the law of Parliament. Not only are points of Parliamentary law discussed or decided since the publication of the last edition duly noticed in their places, but the matter thus added is well digested, tersely presented and carefully interwoven with the text."—*Solicitors Journal*.

"Fifty pages of new matter have been added by Sir Thomas May in his seventh edition, thus comprising every alteration in the law and practice of Parliament, and all material precedents relating to public and private business since the publication of the sixth edition. We need make no comment upon the value of the work. It is an accepted authority and is undeniably the law of Parliament. It has been brought up to the latest date, and should be in the hands of every one engaged in Parliamentary life, whether as a lawyer or as a senator."—*Law Times*.

**Higgins's Digest of Patent Cases.**

8vo., 21s. cloth; 25s. calf.

**A DIGEST of the REPORTED CASES** relating to the Law and Practice of LETTERS PATENT for INVENTIONS, decided from the passing of the Statute of Monopolies to the present time. By CLEMENT HIGGINS, M.A., F.C.S., of the Inner Temple, Barrister at Law.

"Mr. Higgins's work will be useful as a work of reference. Upwards of 700 cases are digested; and, besides a table of contents, there is a full index to the subject matter; and that index, which greatly enhances the value of the book, must have cost the author much time, labour and thought."—*Law Journal*.

"This is essentially," says Mr. Higgins in his preface, "a book of reference." It remains to be added whether the compilation is reliable and exhaustive. It is only fair to say that we think it is; and we will add, that the arrangement of subject matter (chronological under each heading, the date, and double or even treble references being appended to every decision), and the neat and carefully executed index (which is decidedly above the average) are such as no reader of 'essentially a book of reference' could quarrel with."—*Solicitors' Journal*.

"On the whole Mr. Higgins's work has been well accomplished. It has ably fulfilled its object by supplying a reliable and authentic summary of the reported patent law cases decided in English courts of law and equity, while presenting a complete history of legal doctrine on the points of law and practice relating to its subject."—*Irish Law Times*.

"Mr. Higgins has, with wonderful and accurate research, produced a work which is much needed, since we have no collection of patent cases which does not terminate years ago. We consider, too, if an inventor furnishes himself with this Digest and a little treatise on the law of patents, he will be able to be as much his own patent lawyer as it is safe to be."—*Scientific and Literary Review*.

"Mr. Higgins's object has been to supply a re-

liable and exhaustive summary of the reported patent cases decided in English courts of law and equity, and this object he appears to have attained. The classification is excellent, being, as Mr. Higgins very truly remarks, that which naturally suggests itself from the practical working of patent law rights. The lucid style in which Mr. Higgins has written his Digest will not fail to recommend it to all who may consult his book; and the very copious index, together with the table of cases, will render the work especially valuable to professional men."—*Mining Journal*.

"The appearance of Mr. Higgins's Digest is exceedingly opportune. The plan of the work is definite and simple. We consider that Mr. Higgins, in the production of this work, has met a long felt demand. Not merely the legal profession and patent agents, but patentees, actual or intending inventors, manufacturers and their scientific advisers, will find the Digest an invaluable book of reference."—*Chemical News*.

"The arrangement and condensation of the main principles and facts of the cases here digested render the work invaluable in the way of reference."—*Standard*.

"The work constitutes a step in the right direction, and is likely to prove of much service as a guide, a by no means immaterial point in its favour being that it includes a number of comparatively recent cases."—*Engineer*.

"From these decisions the state of the law upon any point connected with patents may be deduced. In fine, we must pronounce the book as invaluable to all whom it may concern."—*Quarterly Journal of Science*.

## Bainbridge's Law of Mines and Minerals.—3rd Edit.

Svo., 30s. cloth.

A TREATISE on the LAW of MINES and MINERALS. By WILLIAM BAINBRIDGE, Esq., F.G.S., of the Inner Temple, Barrister at Law. Third Edition, carefully revised, and much enlarged by additional matter relating to mineral rights—rights of way and water and other mining easements—the sale of mines and shares—the construction of leases—cost book and general partnerships—injuries from undermining and inundations—barriers and working out of bounds. With an Appendix of Forms and Customs and a Glossary of English Mining Terms.

"When a work has reached three editions, criticism as to its practical value is superfluous. We believe that this work was the first published in England on the special subject of mining law—others have since been published—but we see no reason in looking at the volume before us to believe that it has yet been superseded."—*Law Magazine*.

"Mr. Bainbridge was the first to collect and publish, in a separate treatise, the Law of Mines and Minerals, and the work was so well done that his volume at once took its place in the law library as the text book on the subject to which it was devoted. This work must be already familiar to all readers whose

practice brings them in any manner in connection with mines or mining, and they will know its value. We can only say of this new edition that it is in all respects worthy of its predecessors."—*Law Times*.

"It would be entirely superfluous to attempt a general review of a work which has for so long a period occupied the position of the standard work on this important subject. Those only who, by the nature of their practice, have learned to lean upon Mr. Bainbridge as on a solid staff, can appreciate the deep research, the admirable method, and the graceful style of this model treatise."—*Law Journal*.

## Shelford's Companies.—2nd Edit. by Pitcairn and Latham.

Svo., 21s. cloth.

SHELFORD'S LAW OF JOINT STOCK COMPANIES; containing a Digest of the Case Law on that subject; the Companies Acts, 1862, 1867, and other Acts relating to Joint Stock Companies; the Orders made under those Acts to regulate Proceedings in the Court of Chancery and County Courts, and Notes of all Cases interpreting the above Acts and Orders. Second Edition, much enlarged, and bringing the Statutes and Cases down to the date of publication. By DAVID PITCAIRN, M.A., Fellow of Magdalen College, Oxford, and of Lincoln's Inn, Barrister at Law; and FRANCIS LAW LATHAM, B.A., Oxon, of the Inner Temple, Barrister-at-Law, author of "A Treatise on the Law of Window Lights."

"We may at once state that, in our opinion, the merits of the work are very great, and we confidently expect that it will be at least for the present the standard manual of joint stock company law. That great learning and research have been expended by Mr. Pitcairn no one and doubt who reads only a few pages of the book, the result of each case which has any bearing upon the subject under discussion is very lucidly and accurately stated. We heartily congratulate him on the appearance of this work, for which we anticipate a great success. There is hardly any portion of the law at the present day so important as that which relates to joint stock companies, and that the work will be the standard authority on the subject we have not the shadow of a doubt."—*Law Journal*.  
"After a careful examination of this work we are bound to say that we know of no other which surpasses it in two all-important attributes of a law book: first, a clear conception on the part of the author of what he intends to do and how he intends to treat his subject, and secondly, a consistent, laborious and intelligent adherence to his proposed order and method. All decisions are noted and epitomized in their proper places, the practice decisions in the notes to Acts and Rules, and the remainder in the

introductory account or digest. In the digest Mr. Pitcairn runs into everything with original research, and nothing seems to escape him. It is enough for us that Mr. Pitcairn's performance is able and exhaustive. Nothing is omitted, and everything is noted at the proper place. In conclusion we have great pleasure in recommending this edition to the practitioner. Whoever possesses it, and keeps it noted up, will be armed on all parts and points of the law of joint stock companies."—*Scholar's Journal*.

"Although nominally a second edition of Mr. Shelford's treatise, it is in reality an original work, the form and arrangement adopted by Mr. Shelford have been changed, and, we think, improved by Mr. Pitcairn. A full and accurate index also adds to the value of the work, the merits of which, we can have no doubt, will be fully recognized by the profession."—*Law Magazine*.

"This book has always been the *rade mecum* on company law, and will, apparently, long continue to occupy that position. It is perhaps even more useful to the legal practitioner than to the man of business, but still it is the best source of information to which the latter can go."—*Financial and Money Market Review*.

## Trower's Prevalence of Equity.

Just published, 8vo., 5s. cloth.

**A MANUAL OF THE PREVALENCE OF EQUITY** under Section 25 of the Judicature Act, 1873, amended by the Judicature Act, 1875. By CHARLES FRANCIS TROWER, Esq., M.A., of the Inner Temple, Barrister at Law, late Fellow of Exeter College, and Vinerian Law Scholar, Oxford; Author of "The Law of Debtor and Creditor," "The Law of the Building of Churches and Divisions of Parishes," &c.

"We congratulate Mr. Trower on having produced a concise yet comprehensive treatise on the Prevalence of Equity under the 25th section of the Judicature Act, which cannot fail to prove of great service alike to the student and to practitioners of the common law branch of the profession, who, under the recent legislation, find themselves called upon, probably for the first time, to study and apply in practice the equitable principles which now 'prevail.'"—*Law Magazine*, February, 1877.

"As a sketch, suggesting to those who are in a measure already acquainted with the doctrines of equity, the effect which may be expected to result from recent legislation,

the book is likely to prove of value. The amount of information contained in a compressed form within its pages is very considerable, and on the whole it appears to be accurate. The work has been carefully revised and is well and clearly printed."—*Law Times*.

"The propositions are fairly worked out and substantiated by references. The author hopes that his pages may be useful to the common law branch of the profession, which now finds itself called upon to apply the principles of equity to practice. Mr. Trower's manual may save them some hunting in text books of equity."—*Law Journal*.

## Folkard on Slander and Libel.—4th Edition.

Just published, one thick Volume, royal 8vo., 45s. cloth.

**THE LAW of SLANDER and LIBEL** (founded on Starkie's Treatise), including the Pleading and Evidence, Civil and Criminal, adapted to the present Procedure: also Malicious Prosecutions and Contempt of Court. By HENRY C. FOLKARD, Esq., Barrister at Law. Fourth Edition.

"It is well that such a treatise should have been re-edited, and it is well that it should have been re-edited by so careful and painstaking a man as Mr. Folkard."—*Law Magazine*.

"No one can say that Mr. Folkard has failed in the full discharge of his onerous duty, and we are sure that he will earn, as he will obtain, the gratitude of the profession."—*Law Journal*.

"We recommend Mr. Folkard's work to the attention of the profession and the public. It is, as now edited, very valuable."—*Law Times*.

"The result is a valuable addition to the lawyer's library, which for many years has been much needed."—*Justice of the Peace*.

"It has been most laboriously executed."—*Solicitors' Journal*.

## Fawcett's Law of Landlord and Tenant.

8vo., 14s. cloth.

**A COMPENDIUM of the LAW of LANDLORD and TENANT.** By WILLIAM MITCHELL FAWCETT, of Lincoln's Inn, Esq., Barrister at Law.

"It never wanders from the point, and being intended not for students of the law, but for lessors and lessees and their immediate advisers, wisely avoids historical disquisitions, and uses language as untechnical as the subject admits. It may safely be assumed to contain information on all the ordinary questions which either contracting party may require to be answered."—*Law Journal*.

"The author has succeeded in compressing the whole of his subject within the reasonable compass of 373 pages. It may roughly be said of Mr. Fawcett's work, that it is statutory throughout, in accordance with the predominant character of the law at the present day; and Mr. Fawcett takes advantage of this characteristic of modern law to impart to his compendium a degree of *authenticity* which greatly enhances its value as a convenient medium of reference, for he has stated the law in the very words of the authorities. We have discovered plain utility to be the aim and end of Mr. Fawcett's treatise."—*Law Magazine*.

"The amount of information compressed into the book is very large. The plan of the book is extremely good, and the arrangement adopted has

enabled the author to put together in one place the whole law on any particular branch of the subject, and to avoid repetitions. Thus not only is it easy to find what the author has to say on any particular point, but when we have found a reference to it in one place, we may be satisfied that we have found all the book contains upon the point. In this respect, though probably from its smaller size it must contain less information than Woodfall, it will be found far more convenient for ordinary use than that treatise."—*Solicitors' Journal*.

"He contents himself with a plain statement of the existing law, prudently omitting all matters of merely historical interest and topics collateral to the special subjects. Above all, it has been his purpose to state the law in the language of the authorities, presenting the principles enunciated in the very words of the judges. Another excellent feature is a concise summary of the effect of each enactment in the marginal notes. It will be seen from this that the book is thoroughly practical, and, as such, will doubtless find a favorable reception from the profession."—*Law Times*.

## Robson's Bankrupt Law.—Third Edition.

Just published, Svo., 38s. cloth; 42s. calf.

**A TREATISE ON THE LAW OF BANKRUPTCY;** containing a full Exposition of the Principles and Practice of the Law, including the Alterations made by the Bankruptcy Act, 1869. With an Appendix comprising the Statutes, Rules, Orders and Forms. By **GEORGE YOUNG ROBSON, Esq.,** of the Inner Temple, Barrister at Law. Third Edition.

"We are glad to see that Mr. Robson's learned work on bankruptcy has reached a third edition. As a systematic treatise on the important branch of law to which it relates it has long held a deservedly high place in the estimation of the profession. The author has evidently spared no pains to make the present edition worthy of continued support by a painstaking general revision, and by incorporating the results of all important decisions affecting both the General Law of Bankruptcy and the Practice under the Act of 1869. The historical retrospect of bankruptcy legislation contained in Mr. Robson's work is by no means one of its least instructive and useful features. In the case of the third edition of so well known a work it is unnecessary to go much into details, especially as the author has retained the original arrangement, correcting and supplementing where necessary. The references to cases are numerous throughout, and the notes are short and to the point. The Index is both copious and good."—*Law Magazine*, May, 1877.

"In the new edition we observe that the author has used his best endeavours to maintain the credit of his work. He has diligently collected the cases decided on bankruptcy law and practice since 1872, and has set forth in the proper places in the volume the substance of the decisions contained in those cases; and we further observe that he has taken pains to give references to the various

sets of reports, so as to render his book in this respect of equal value to every practitioner. There is, also, a copious Index. Any one to whose lot it has fallen to grapple with questions in bankruptcy practice will appreciate this part of the author's labours."—*Law Journal*.

"We have always considered the last edition of Mr. Robson's book a model of careful editing, and in our opinion this edition does not fall below the same level. The new decisions are brought down in the Addenda to an unusually recent date, and are noted with great accuracy. There is no scissors-and-paste work here; the effect of the cases is weighed and their result stated in as few words as possible. Mr. Robson is very cautious, and does not frequently volunteer an opinion, but he nevertheless occasionally draws attention to mistaken views of the law, and flaws which ought to be amended by the legislature."—*Solicitors' Journal*.

"We welcome the third edition of Mr. Robson's Law and Practice in Bankruptcy. No alteration has been made in the scheme of the work, and none was required. The author does not pretend to have done more than to revise the text and index and note up the cases. We have already expressed a high opinion of the work, which has been confirmed by frequent reference to its pages."—*Law Times*.

## De Colyar's Law of Guarantees.

Svo., 14s. cloth.

**A TREATISE ON THE LAW OF GUARANTEES AND OF PRINCIPAL AND SURETY.** By **HENRY A. DE COLYAR, Esq.,** of the Middle Temple, Esq., Barrister at Law.

"Mr. Colyar's work contains internal evidence that he is quite at home with his subject. His book has the great merit of thoroughness. Hence its present value, and hence we venture to predict will be its enduring reputation."—*Law Times*.

"The whole work displays great care in its production; it is clear in its statements of the law, and the result of the many authorities collected is stated with an intelligent appreciation of the subject in hand."—*Justice of the Peace*.

## Nasmith's Institutes.

Post Svo., 12s. cloth.

**THE INSTITUTES OF ENGLISH PUBLIC LAW**, embracing an Outline of General Jurisprudence, the Development of the British Constitution, Public International Law, and the Public Municipal Law of England. By **DAVID NASMITH, Esq., LL.B.,** of the Middle Temple, Barrister at Law, Author of "The Chronometrical Chart of the History of England," &c.; Joint Translator of Ortolan's "History of Roman Law."

2 vols. or books, post Svo., 21s. cloth.

**THE INSTITUTES OF ENGLISH PRIVATE LAW**, embracing an Outline of the Substantive Branch of the Law of Persons and Things. Adapted to the New Procedure. By **DAVID NASMITH, LL.B.,** of the Middle Temple, Barrister at Law, Author of "Institutes of English Public Law," &c., &c.

**Ortolan's Roman Law, translated by Prichard & Nasmith.**

Svo., 28s. cloth.

**THE HISTORY of ROMAN LAW**, from the Text of Ortolan's *Histoire de la Législation Romaine et Généralisation du Droit* (Edition of 1870). Translated, with the Author's permission, and Supplemented by a Chronometrical Chart of Roman History. By **LETUDUS T. PRICHARD, Esq., F.S.S.**, and **DAVID NASMITH, LL.B.**, Barristers at Law.

"We know of no work, which, in our opinion, exhibits so perfect a model of what a text-book ought to be. Of the translation before us, it is enough to say, that it is a faithful representation of the original."—*Law Magazine*.

"This translation, from its great merit, deserves a warm reception from all who desire to be acquainted with the history and elements of Roman law, or have its interests as a necessary part of sound legal education at heart. With regard to that great work it is enough to say, that English writers have been continually in the habit of doing piecemeal what Messrs. Prichard and Nasmith have done wholesale. Hitherto we have had but gold-dust from the mine; now we are fortunate in obtaining a nugget. Mr. Nasmith is already known as the designer of a chart of the history of England, which has been generally

approved, and bids fairly for extensive adoption."—*Law Journal*.

"We are extremely glad to welcome the appearance of a translation of any of the works of M. Ortolan, and the history and generalization of Roman law, which are now presented to us in English, are perhaps the most useful books that could be offered at the present time to students of the Roman law. The utility of Roman law, as an instrument of legal education, is now generally admitted. The English of the book is unusually free from foreign idioms which so often disfigure translations. The book itself we strongly recommend to all who are interested in Roman law, jurisprudence or history, and who are not sufficiently familiar with French, to be able to read the original with ease."—*Solicitors' Journal*.

**Adams on Trade Marks.**

Svo., 7s. 6d. cloth.

**A TREATISE ON THE LAW OF TRADE MARKS**; with the Trade Marks Registration Act of 1875, and the Lord Chancellor's Rules. By **F. M. ADAMS, B.A.**, of the Middle Temple, Barrister-at-Law.

"A comprehensive treatise on the subject of the Law of Trade Marks. We can recommend Mr. Adams' work to the favourable attention of patentees, manufacturers and others interested in the use of trade marks."—*Chambers of Commerce Chronicle*.

"The subject of trade marks is beset with difficulties, in the elucidation of which this work will be valuable."—*City Press*.

"A second issue of this work has been rendered necessary by the Act of 1875, which came into force in July of the same year, and which almost revolutionized the law upon the

subject. Everything has been brought down to the latest dates, and the new act, together with the Lord Chancellor's rules, will be found in the added Appendix."—*Standard*.

"Any one who is the owner of trade marks should certainly not be without this book. The subject is treated very ably throughout, and the list of illustrative cases which are given will enable the most illiterate to comprehend the state of the law. We are not aware of any better work on the subject of trade marks than the work before us."—*The Ironmonger*.

**Hunt's Boundaries, Fences and Foreshores.—2nd Edit.**

Post Svo., 12s. cloth.

**A TREATISE on the LAW relating to BOUNDARIES and FENCES** and to the Rights of Property on the Sea Shore and in the Beds of Public Rivers and other Waters. Second Edition. By **ARTHUR JOSEPH HUNT, Esq.**, of the Inner Temple, Barrister at Law.

"It speaks well for this book that it has so soon passed into a second edition. That its utility has been appreciated is shown by its success. Mr. Hunt has availed himself of the opportunity of a second edition to note up all the cases to this time, and to extend considerably some of the chapters, especially that which treats of rights of property on the sea shore and the subjects of sea walls and commissions of sewers."—*Law Times*.

"There are few more fertile sources of litigation than those dealt with in Mr. Hunt's valuable book. It is sufficient here to say that the volume ought to have a larger circulation than ordinarily belongs to law books, that it ought to be found in every country gentleman's library, that the cases are brought down to the latest

date, and that it is carefully prepared, clearly written, and well edited."—*Law Magazine*.

"Mr. Hunt chose a good subject for a separate treatise on Boundaries and Fences and Rights to the Seashore, and we are not surprised to find that a second edition of his book has been called for. The present edition contains much new matter. The chapter especially which treats on rights of property on the seashore, has been greatly extended. Additions have been also made to the chapters relating to the fencing of the property of mine owners and railway companies. All the cases which have been decided since the work first appeared have been introduced in their proper places. Thus it will be seen this new edition has a considerably enhanced value."—*Solicitors' Journal*.

## Rouse's Conveyancer.—3rd Edit. with Supplement.

Two vols. 8vo., 30s. cloth, 38s. calf.

The PRACTICAL CONVEYANCER, giving, in a mode combining facility of reference with general utility, upwards of Four Hundred Precedents of Conveyances, Mortgages and Leases, Settlements, and Miscellaneous Forms, with (not in previous editions) the Law and numerous Outline Forms and Clauses of WILLS and Abstracts of Statutes affecting Real Property, Conveyancing Memoranda, &c. By ROLLA ROUSE, Esq., of the Middle Temple, Barrister at Law, Author of "The Practical Man," &c. Third Edition, greatly enlarged. With a Supplement, giving Abstracts of the Statutory Provisions affecting the Practice in Conveyancing; and the requisite Alterations in Forms, with some new Forms; and including a full Abstract in numbered Clauses of the Stamp Act, 1870.

THE SUPPLEMENT separately, price 1s. 6d. sewed.

"The best test of the value of a book written professedly for practical men is the practical one of the number of editions through which it passes. The fact that this well-known work has now reached its third shows that it is considered by those for whose convenience it was written to fulfil its purpose well."—*Law Magazine*.

"This is the third edition in ten years, a proof that practitioners have used and approved the precedents collected by Mr. Rouse. In this edition, which is greatly enlarged, he has for the first time introduced Precedents of Wills, extending to no less than 116 pages. We can accord unmingled praise to the conveyancing memoranda showing the practical effect of the various statutory provisions in the different parts of a deed. If the two preceding editions have been so well received, the welcome given to this one by the profession will be heartier still."—*Law Times*.

"So far as a careful perusal of Mr. Rouse's book enables us to judge of its merits, we think that as a collection of precedents of general utility in cases of common occurrence it will be found satisfactorily to stand the application of the test. The draftsman will find in the Practical Conveyancer precedents appropriate to all instruments of common occurrence, and the collection appears to be especially well supplied with those which relate to copyhold estates. In order to avoid useless repetition and also to make the precedents as simple as possible, Mr. Rouse has sketched out a number of outline drafts so as to present to the

reader a sort of bird's eye view of each instrument and show him its form at a glance. Each paragraph in these outline forms refers, by distinguishing letters and numbers, to the clauses in full required to be inserted in the respective parts of the instrument, and which are given in a subsequent part of the work, and thus every precedent in outline is made of itself an index to the clauses which are necessary to complete the draft. In order still further to simplify the arrangement of the work, the author has adopted a plan (which seems to us fully to answer its purpose) of giving the variations which may occur in any instrument according to the natural order of its different parts."—*Law Journal*.

"That the work has found favor is proved by the fact of our now having to review a third edition. This method of skeleton precedents appears to us to be attended with important advantages. To clerks and other young hands a course of conveyancing under Mr. Rouse's auspices is, we think, calculated to prove very instructive. To the solicitor, especially the country practitioner, who has often to set his clerks to work upon drafts of no particular difficulty to the experienced practitioner, but upon which they the said clerks are not to be quite trusted alone, we think to such gentlemen Mr. Rouse's collection of Precedents is calculated to prove extremely serviceable. We repeat, in conclusion, that solicitors, especially those practising in the country, will find this a useful work."—*Solicitors' Journal*.

## Phillips's Law of Lunacy.

Post 8vo., 18s. cloth.

THE LAW CONCERNING LUNATICS, IDIOTS and PERSONS of UNSOUND MIND. By CHARLES PALMER PHILLIPS, M.A., of Lincoln's Inn, Esq., Barrister at Law, and one of the Commissioners in Lunacy.

"Mr. C. P. Phillips has in his very complete, elaborate and useful volume presented us with an excellent view of the present law as well as the practice relating to lunacy."—*Law Magazine and Review*.

"The work is one on which the author has evidently bestowed great pains, and which not only bears the mark of great application and research, but which shows a familiarity with the subject."—*Justice of the Peace*.

## Bund's Law of Salmon Fisheries, corrected to 1876.

Post 8vo., 16s. cloth.

The LAW relating to the SALMON FISHERIES of ENGLAND and WALES, as amended by the Salmon Fishery Act, 1873, incorporating the Bye-laws, Statutes and Cases to November, 1876. By J. W. WILLIS BUND, M.A., LL.B., of Lincoln's Inn, Esq., Barrister at Law, Vice Chairman Severn Fishery Board. The Supplement, embodying the Legislation, Bye-laws and Cases to November, 1876, may be had separately. Price 1s. sewed.

"I would wish in this place to express my approval of 'Bund's Law of Salmon Fisheries in England and Wales, with Statutes and Cases.' This work will afford great assistance to those engaged in administering the law, while it affords valuable information on the theory and practice of salmon legislation in general."—*From the Thirteenth Annual Report of Inspector Buckland on Salmon Fisheries, 1874.*

"Mr. Willis-Bund, the draughtsman of the new act, has published an important treatise on the whole of the Salmon Fishery Acts, which has already been accepted as a complete exposition of those statutes."—*From the Thirteenth Annual Report of Inspector Walpole on Salmon Fisheries, 1874.*

"Doubtless all the law will be found between his covers, and we have not been able to detect any erroneous statements. We can recommend the book as a disquisition,—it is conscientiously executed."—*Law Times.*

"Mr. Bund, whose name is so well known to all who take interest in our Salmon fisheries, has lost no time since the passing of the Act of 1873 in bringing out his work on salmon fishery law. That the book, so far as England and Wales are concerned, is a very complete and exhaustive one, no one who knows Mr. Bund's clearness and power of application will doubt. Mr. Bund has done the work

excellently well, and nothing further in this way can be desired."—*The Field.*

"This terse and useful summary gives not merely the Salmon Fishery Act of 1873, but the state of the law as left repealed and unaffected by that act, with statutes and cases arising from them. The whole subject is treated exhaustively, and in a manner most satisfactory."—*Standard.*

"There is happily a good and ample index at the end of the volume. By means of this we have tested the author on various difficult points, and we have always found his opinion sound, and his explanations clear and lucid. This volume must of necessity become a hand-book to salmon-fishers in general, and especially to boards of conservators, who will thereby be much assisted in the formation of the new boards of conservators, under the Act of 1873; also the operation of the Acts of 1861 and 1865, as amended by the Act of 1873."—*Land and Water.*

"The author of the work before us has done much to supply the shortcomings of legislation. He has brought to the subject not only a comprehensive knowledge of this branch of the law, but a practical acquaintance with its administration, and the result is a book of considerable merit."—*Public Opinion.*

## Hamel's Customs Laws, 1876.

Just published, post 8vo. 6s.; demy 8vo. 8s. 6d. cloth.

THE LAWS OF THE CUSTOMS, consolidated by direction of the Lords Commissioners of Her Majesty's Treasury. With Practical Notes and References throughout; an Appendix, containing various Statutory Provisions incidental to the Customs; the Customs Tariff Act; and a copious Index. By FELIX JOHN HAMEL, Esq., Solicitor for Her Majesty's Customs.

"Mr. Hamel, Solicitor for Her Majesty's Customs, has produced a very useful 'pocket volume' edition of The Customs Laws and Tariff Act, 1876, for which his official position affords him unique facilities, and which ought to be in the hands of all who have an interest in our maritime commerce."—*Law Magazine*, February, 1877.

"By issuing this handy edition of the Customs Laws Consolidation Act of last session, Mr. Hamel has conferred a benefit on a

very large class of the public, and has completed the work which that act was intended to accomplish. A copious Index is added, referring to the sections of the Consolidation Act. We must add a word of praise of the convenient form of the work, and of the excellent type adopted."—*Solicitors' Journal.*

"The work is in all respects most skillfully executed, and amply deserves public favour."—*Irish Law Times.*

## Rogers's Judicature Acts, 1873 and 1875.

One vol., demy 8vo., 21s. cloth.

THE LAW AND PRACTICE OF THE SUPREME COURT OF JUDICATURE. By ARUNDEL ROGERS, Esq., of the Inner Temple, Barrister at Law, Author of "The Law of Mines, Minerals and Quarries."

## Dixon's Law of Partnership.

1 vol. 8vo., 22s. cloth.

**A TREATISE on the LAW of PARTNERSHIP.** By JOSEPH DIXON, of Lincoln's Inn, Esq., Barrister at Law. Editor of "Lush's Common Law Practice."

"We imagine that very few questions are likely to come before the practitioner which Mr. Dixon's book will not be found to solve. Having already passed our opinion on the way in which the work is carried out, we have only to add that the value of the book is very materially increased by an excellent marginal summary, and a very copious index."—*Law Magazine and Review*.

"Mr. Dixon has done his work well. The book is carefully and usefully prepared."—*Solicitors' Journal*.

"Mr. Dixon enters into all the conditions of partnerships at common law, and defines the rights of partners among themselves; the rights of the partnership against third persons; the rights of third persons against the partnership; and the rights and liabilities of individuals, not actually partners, but liable to be treated by third persons as partners."—*The Times*.

"We heartily recommend to practitioners and students Mr. Dixon's treatise as the best exposition of the law we have read, for the arrangement is not only artistic, but clearness has been studied without sacrifice of clearness. He sets forth the principles upon which the law is based as well as the cases by which its application is shown. Hence it is something more than a digest, which too many law books are not: it is really an essay."—*Law Times*.

"He has evidently bestowed upon this book the same conscientious labour and painstaking industry for which we had to compliment him some months since when reviewing his edition of Lush's 'Practice of the Superior Courts of Law,' and, as a result, he has produced a clearly written and well arranged manual upon one of the most important branches of our mercantile law."—*Law Journal*.

## Coote's Admiralty Practice.—Second Edition.

8vo., 16s. cloth.

**THE PRACTICE** of the HIGH COURT of ADMIRALTY of ENGLAND: also the Practice of the Judicial Committee of Her Majesty's Most Honorable Privy Council in Admiralty Appeals, with Forms and Bills of Costs. By HENRY CHARLES COOTE, F.S.A., one of the Examiners of the High Court of Admiralty, Author of "The Practice of the Court of Probate," &c. Second Edition, almost entirely re-written, with a Supplement giving the *County Courts Jurisdiction and Practice in Admiralty*, the Act of 1868, Rules, Orders, &c.

\*.\* This work contains every Common Form in use by the Practitioner in Admiralty, as well as every description of Bill of Costs in that Court, a feature possessed by no other work on the Practice in Admiralty.

## Mr. Justice Lush's Common Law Practice.—Third Edition by Dixon.

2 vols. 8vo., 46s. cloth.

**LUSH'S PRACTICE** of the SUPERIOR COURTS of COMMON LAW at WESTMINSTER, in Actions and Proceedings over which they have a common Jurisdiction: with Introductory Treatises respecting Parties to Actions; Attornies and Town Agents, their Qualifications, Rights, Duties, Privileges and Disabilities; the Mode of Suing, whether in Person or by Attorney in Forma Pauperis, &c. &c. &c.; and an Appendix, containing the authorized Tables of Costs and Fees, Forms of Proceedings and Writs of Execution. Third Edition. By JOSEPH DIXON, of Lincoln's Inn, Esq., Barrister at Law.

## Mr. Bedford's Examination Manuals.

### Bedford's Final Guide to Probate and Divorce.

Just published, 8vo., 4s. cloth.

THE FINAL EXAMINATION GUIDE to the LAW of PROBATE and DIVORCE: containing a Digest of Final Examination Questions, with the Answers. By E. H. BEDFORD, Solicitor, Temple, Author of the "Final Examination Guide to the Practice of the Supreme Court of Judicature," &c., &c.

"The examiners have added, as extra subjects in the 'Final,' the Probate and Divorce Law. Mr. E. H. Bedford, Solicitor, who seems to be always anxious to keep abreast of the tide, has prepared a Guide or Manual to assist his pupils and candidates generally in the examination in acquiring due knowledge of these subjects. His Guide takes the favourite form of Questions and Answers, and seems to have been carefully and accurately compiled."—*Law Journal*.

"Mr. Bedford, who has compiled Guides on pretty nearly every subject of importance to articulated clerks, now supplies a Final Examination Guide to the Law of Probate and Divorce—this having been made an extra subject by

the examiners. A student who masters this little work ought to be able to satisfy the examiners, for the questions appear to be exhaustive, whilst the answers have been compiled with skill, and convey a very great deal of information. An index to such a work, in our opinion, is unnecessary, but it is supplied for what it may be worth."—*Law Times*.

"As our readers are aware, the subjects of Probate and Divorce are now introduced into the Final Examination as honour subjects. Candidates for honours who desire to distinguish themselves in these subjects cannot do better than procure the book named at the head of this review."—*Law Examination Journal*.

### Bedford's Final Guide to Judicature Acts, 1873-5.

1 vol. 8vo., 7s. 6d. cloth.

THE FINAL EXAMINATION GUIDE to the PRACTICE of the SUPREME COURT OF JUDICATURE: containing a Digest of the Final Examination Questions, with many new ones, with Answers under the Supreme Court of Judicature Acts. By EDWARD HENSLOWE BEDFORD, Solicitor, Editor of the "Preliminary," "Intermediate," and "Final," &c., &c.

"Every conceivable question appears to have been asked, and a full answer is given in each case. Mr. Bedford really knows better than we do what students require, and we have no doubt that his compilation will be extensively used. It contains a sufficient index."—*Law Times*.

"Mr. Bedford's Final Examination Guide supplies a want which will be much felt by students as to what they are to read with reference to the new practice. The Guide and Time Table will be found useful helps to students

in perusing the Judicature Acts."—*Law Examination Journal*.

"The various sections, orders and rules of the acts have been here arranged under their proper and consecutive headings in the form of question and answer, and the result is a useful and readable book, which we would recommend students to keep in view."—*Irish Law Times*.

"We have in these pages a well arranged and clear digest of the final examination questions, and many new questions, with answers, under the Supreme Court of Judicature Acts."—*Standard*.

By the same Author, Fourth Edition, on a Sheet, 1s.

A TABLE of the PRINCIPAL STEPS and TIMES in an ACTION UNDER THE SUPREME COURT OF JUDICATURE ACTS.

"It will not only prove of service to common law and chancery clerks, but also to articulated clerks in the course of their studies."—*Law Times*.

By the same Author, on a Sheet, 1s.

A TABLE of the LEADING STATUTES for the INTERMEDIATE and FINAL EXAMINATIONS in Law, Equity and Conveyancing.

### Bedford's Intermediate Examination Guide.

2 vols. in 1, 8vo., 14s. 6d. cloth.

The INTERMEDIATE EXAMINATION GUIDE: containing a Digest of the Examination Questions on Common Law, Conveyancing and Equity, with the Answers. By EDWARD HENSLOWE BEDFORD, Solicitor, Temple, Editor of the "Preliminary," "Intermediate" and "Final," &c.

## Seaborne's Law of Vendors and Purchasers.

Post 8vo., 9s. cloth.

A CONCISE MANUAL of the LAW of VENDORS and PURCHASERS of REAL PROPERTY, with a Supplement, including the Vendor and Purchaser Act, 1874, with Notes. By HENRY SEABORNE.

"\* This work is designed to furnish Practitioners with an easy means of reference to the Statutory Enactments and Judicial Decisions regulating the transfer of Real Property, and also to bring these authorities in a convenient shape under the attention of Students.

"The value of Mr Seaborne's work consists in its being the most concise summary yet published of one of the most important branches of the law. The student will find this book a useful introduction to a dry and difficult subject."—*Law Examination Journal*.

"The book before us contains a good deal, especially of practical information as to the course of conveyancing matters in solicitors' offices,

which may be useful to students."—*Solicitors' Journal*.

"We will do Mr. Seaborne the justice to say that we believe his work will be of some use to articulated clerks and others in solicitors' offices, who have not the opportunity or inclination to refer to the standard works from which his is compiled."—*Law Journal*.

## Aldred's Questions on Property Law.

Post 8vo., 5s. cloth.

ELEMENTARY QUESTIONS on the LAW of PROPERTY, REAL and PERSONAL, supplemented by advanced Questions on the Law of Contracts, with copious references throughout. By PHILIP FOSTER ALDRED, B.C.L., Hertford College, Oxford.

## Clark's Digest of House of Lords Cases.

Royal 8vo., 31s. 6d. cloth.

A DIGESTED INDEX to all the REPORTS in the HOUSE of LORDS from the commencement of the Series by Dow, in 1814, to the end of the Eleven Volumes of House of Lords Cases, with references to more recent Decisions. By CHARLES CLARK, Esq., one of Her Majesty's Counsel, Reporter by Appointment to the House of Lords.

"The acknowledged eminence of the noble and learned persons by whom the decisions have been pronounced, gives them a value beyond their official authoritativeness. It is

hoped that this Digest will have the effect of making the profession at large familiarly acquainted with them."—*Procuratory Notice*.

## Barry's Practice of Conveyancing.

8vo., 18s. cloth.

A TREATISE on the PRACTICE of CONVEYANCING. By W. WHITTAKER BARRY, Esq., of Lincoln's Inn, Barrister at Law, late Holder of the Studentship of the Inns of Court, and Author of "A Treatise on the Statutory Jurisdiction of the Court of Chancery."

"We feel bound to strongly recommend it to the practitioner as well as the student. The author has proved himself to be a master of the subject, for he not only gives a most valuable supply of practical suggestions, but criticises them with much ability, and we have no doubt that his criticism will meet with general approval."—*Law Magazine*.

"It contains, in a concise and readable form, the law relating to almost every point likely to arise in the ordinary every day practice of the conveyancer, with references to the various authorities and statutes to the latest date, and may be described as a manual of practical conveyancing."—*Law Journal*.

"This treatise supplies a want which has long

been felt. There has been no treatise on the Practice of Conveyancing issued for a long time past that is adequate for the present requirements. Mr. Barry's work is essentially what it professes to be, a treatise on the Practice of Conveyancing. The treatise, although capable of compression, is the production of a person of great merit and still greater promise."—*Solicitors' Journal*.

"A work the substance of which is so well known to our readers, needs no recommendation from us, for its merits are patent to all, from personal acquaintance with them. The information that the treatise so much admired may now be had in the more convenient form of a book, will suffice of itself to secure a large and eager demand for it."—*Law Times*.

## Barry's Forms in Conveyancing.

8vo., 21s. cloth.

FORMS AND PRECEDENTS in CONVEYANCING; with Introduction and Practical Notes. By W. WHITTAKER BARRY, of Lincoln's Inn, Esq., Barrister at Law, Author of "A Treatise on the Practice of Conveyancing."

**Hare on Discovery.—Second Edition, with Addenda, 1877.**

Post 8vo., 12s. cloth.

**A TREATISE ON THE DISCOVERY OF EVIDENCE.**

By THOMAS HARE, of the Inner Temple, Esq., Barrister at Law. Second Edition, adapted to the Procedure in the High Court of Justice, with Addenda containing all the Reported Cases to the end of 1876, by SHERLOCK HARE, of the Inner Temple, Esq., Barrister at Law, and of the Midland Circuit.

"We have read his work with considerable attention and interest, and we can speak in terms of cordial praise of the manner in which the new procedure has been worked into the old material. Not that the old material has been allowed to remain unimproved. In many instances necessary changes and amendments have been made, evincing a thorough appreciation of the necessities of the case on the part of the learned editor. We purposely abstain from referring to the details of the book. 'Hare on Discovery' has long been well known, it must now become better known. All the sections and orders of the new legis-

lation are referred to in the text, a synopsis of recent cases is given, and a good index completes the whole."—*Law Times*.

"The original work speedily became an authority on this subject, and has been for years a recognized text-book among the profession and the courts, and we are pleased to see that the present editor has in no way abated his care in noting up the new cases and explaining the present law and practice, so that in all essential points the present edition is a worthy successor to its predecessor."—*Irish Law Times*.

**Goldsmith's Equity.—Sixth Edition.**

Post 8vo., 18s. cloth.

**THE DOCTRINE AND PRACTICE OF EQUITY:** or a concise Outline of Proceedings in the High Court of Chancery, designed principally for the Use of Students. Sixth Edition, according to the recent Statutes and Orders. By GEO. GOLDSMITH, Esq., M.A., Barrister-at-Law.

"A well-known law student's book, the best, because the most thoroughly complete, yet simplified instructor, in the principles and practice of equity that has ever been provided for him; and that its value has been recognized by those who have made use of it is proved by this—that their commendations have carried it to a sixth edition. The principles of equity are as they were, but the practice has so changed since the publication of the first edition, that every part of this division of the work has required to be rewritten almost as often as a new edition was demanded. Of course, the size of the book has grown also, and from being, as we remember it, a very little book, to be carried in the pocket, it has become a portly volume, and this fairly represents its increased merits. Now that every student aspiring to the bar is to be examined before admission, good books for instruction in the law will be more than ever in request."—*Law Times*.

"It is difficult to know which to praise most, the excellence and dignity of the style, or the exhaustiveness of the information furnished to the reader. Mr. Goldsmith's plan corresponds to

some extent with that adopted by Mr. Haynes in his excellent 'Outlines of Equity,' but his work is more complete than that of Mr. Haynes."—*Law Examination Journal*.

"The whole work is elaborated by Mr. Goldsmith with evident care and a determination to deal with all that can come within the scope of the title. It is characterized by comprehensiveness and at the same time conciseness, by clearness of diction and attractiveness of style and avoidance of technicalities which might prove embarrassing to the student, and a close adherence to the purpose as expressed in the preface. Mr. Goldsmith's volume is marked by as much originality as well can be found in a work of its kind."—*Law Journal*.

"Altogether the author's method and his execution are alike commendable—and we are of opinion that the lawyer, who, as a student, avails himself of the primary intention of Mr. Goldsmith's work by finding in it his first equity reading book or primer, will afterwards verify the anticipation of the author by making of it *dilectum juvenitii* or *rade mecum* in his later practice."—*Law Magazine*, 2nd notice.

**Lewis's Introduction to Equity Drafting.**

Post 8vo., 12s. cloth.

**PRINCIPLES of EQUITY DRAFTING;** with an Appendix of Forms. By HUBERT LEWIS, B.A., of the Middle Temple, Barrister at Law; Author of "Principles of Conveyancing," &c.

**Lewis's Introduction to Conveyancing.**

8vo., 18s. cloth.

**PRINCIPLES of CONVEYANCING** explained and illustrated by Concise Precedents; with an Appendix on the effect of the Transfer of Land Act in modifying and shortening Conveyances. By HUBERT LEWIS, B.A., late Scholar of Emmanuel College, Cambridge, of the Middle Temple, Barrister at Law.

## Locock Webb's Practice of the Court of Judicature.

Just published. 1877. One thick vol. 8vo., 30s. cloth.

**THE PRACTICE** of the **SUPREME COURT** of **JUDICATURE** and of House of Lords on Appeals, the Jurisdiction of the Court of Bankruptcy, the Court of Chancery of the County Palatine of Lancaster, the Court of the Lord Warden of the Stannaries, and the County Courts; shewing to what extent such jurisdiction is exclusive or is concurrent with that of the High Court of Justice, and the Practice on Appeals from those Courts. By **LOCOCK WEBB, Q.C.**, of the Middle Temple, Esq.

"This is a work of undoubted merit, and is in every way superior to the books of practice under the Judicature Acts already published. We congratulate Mr. Webb on the fact that he has not adopted the rôle of a bookmaker. With the aid of several competent assistants, he gives to the profession a pithy treatise on

Jurisdiction, Law, and Procedure. Some of what may be called the brief essays on the different heads embraced are models of concise statement. This volume must prove a welcome addition to the library of the Judge and the practitioner."—*Law Times*, Feb. 10, 1877.

## Ball's Popular Conveyancer.

Just published, 8vo., 10s. 6d. cloth.

**THE POPULAR CONVEYANCER**, being a comprehensive Theoretical and Practical Exposition of Conveyancing, with Concise Precedents. By **JAMES BALL**.

**CONTENTS**:—Chap. I. Introduction.—II. Terms employed in Conveyances.—III. Agreements or Contracts for Sale or Purchase.—IV. General Contracts.—V. Conveyances on Sales.—VI. Leases.—VII. Mortgages.—VIII. Partnerships.—IX. Settlements.—X. Wills.—XI. Miscellaneous Deeds.—XII. Abstracts of Title.—XIII. Memorials.—XIV. Notices.—XV. Recitals.—XVI. Regulations on Title.—XVII. On Conducting and completing Conveyancing Matters. Appendix A. Charter of Feoffment.—B. 23 & 24 Vict. cap. 145 (with Notes).—C. Affidavits and Declarations.—D. Public Companies: Instruments required upon Incorporation.—Table of Cases cited.—Table of Precedents.—General Index.

"The work shows that Mr. Ball has a very clear conception of conveyancing; his notes are well written and compendious, and the precedents have been selected with great care. Such a book must commend itself to students and practitioners."—*Law Times*.

"Mr. Ball's main object is to place in the hands of clerks and students a guide to the

simpler conveyancing matters transacted in a solicitor's office. We think the book will be useful for this purpose, and the diligence with which the author has annotated his precedents will certainly save the solicitor, or his conveyancing clerk, the trouble of imparting a good deal of elementary information to the attieled clerks."—*Solicitors' Journal*.

## Ball's Popular Monthly Law Tracts.

Now Ready. Price, 6d. monthly.

**THE POPULAR MONTHLY LAW TRACTS**, commencing May, 1877. Subject for May, "Copyright." Edited by **JAMES BALL**.

## Tudor's Leading Cases on Real Property, &c.—2nd Edit.

One thick vol. royal 8vo., 42s. cloth; 48s. calf.

**A SELECTION OF LEADING CASES** on the **LAW RELATING TO REAL PROPERTY**, Conveyancing, and the Construction of Wills and Deeds; with Notes. By **OWEN DAVIES TUDOR, Esq.**, of the Middle Temple, Barrister at Law. Author of "A Selection of Leading Cases in Equity." Second Edition.

"The second edition is now before us, and we are able to say that the same extensive knowledge and the same laborious industry as have been exhibited by Mr. Tudor on former occasions characterize this later production of his legal authorship; and it is enough at this moment to reiterate an opinion that Mr. Tudor has well maintained the high legal reputation which his standard works have achieved in all countries where the English language is spoken, and the decisions of our Courts are quoted."—*Law Magazine and Review*.

"To Mr. Tudor's treatment of all these subjects, so complicated and so varied, we accord our entire commendation. There are no omissions of any important cases relative to the various branches of the law comprised in the

work, nor are there any omissions or defects in his statement of the law itself applicable to the cases discussed by him. We cordially recommend the work to the practitioner and the student alike, but especially to the former."—*Solicitors' Journal*.

"This and the other volumes of Mr. Tudor are almost a law library in themselves, and we are satisfied that the student would learn more law from the careful reading of them than he would acquire from double the time given to the elaborate treatises which learned professors recommend the student to peruse, with entire forgetfulness that time and brains are limited, and that to do what they advise would be the work of a life. No law library should be without this most useful book."—*Law Times*.

## Chute's Equity in Relation to Common Law.

Post 8vo., 9s. cloth.

**EQUITY UNDER THE JUDICATURE ACT, OR THE RELATION OF EQUITY TO COMMON LAW:** with an Appendix, containing the High Court of Judicature Act, 1873, and the Schedule of Rules. By CHALONER WILLIAM CHUTE, Barrister at Law; Fellow of Magdalen College, Oxford; Lecturer to the Incorporated Law Society of Great Britain.

"His manner is eminently philosophical, and proves the capacity of the author for the position of a lecturer, while it is just the kind of teaching by which students are attracted to the light. Students may here congratulate themselves on the possibility of finding, within the limits of two hundred pages, many of the chief doctrines of Equity, set forth briefly, lucidly and completely."—*Law Journal*.

"We may add that his style presents a very agreeable contrast to the general style of law books. In conclusion, we would heartily recommend this most instructive and interesting work to the perusal of the student."—*Law Examination Journal*.

"The present volume can scarcely fail to become a standard work on the subject of which it treats. Mr. Chute has one special virtue for which his readers will be thankful—the method and arrangement—which are specially valuable in a book of this kind."—*Morning Post*.

"The book is deserving of praise, both for clearness of exposition and for the interesting

way in which modern cases are used to illustrate the doctrines expounded. As it stands it appears to us to be a useful guide to the leading principles of Equity Jurisprudence. The book is written in easy and familiar language, and is likely to prove more attractive to the student than many formal treatises."—*Solicitors' Journal*.

"He thinks clearly, writes very well. As a small and meritorious contribution to the history of jurisprudence it deserves to be welcomed."—*Law Times*.

"The work is conscientiously done and will be useful to the student at the present juncture."—*Echo*.

"Mr. Chute's book is founded upon lectures delivered by him to the students at the Law Institution. The object of it is to point out concisely the principles on which the doctrines of Equity depend, and to show the relation of Equity to the Common Law, and the work is a useful one for the class of persons to whom the lectures are delivered."—*Lithæum*.

## Tomkins and Jencken's Modern Roman Law.

8vo., 14s. cloth.

**COMPENDIUM of the MODERN ROMAN LAW.** Founded upon the Treatises of Puchta, Von Vangerow, Arndts, Franz Mølller and the Corpus Juris Civilis. By FREDERICK J. TOMKINS, Esq., M.A., D.C.L., Author of the "Institutes of Roman Law," Translator of "Gaius," &c., and HENRY DIEDRICH JENCKEN, Esq., Barristers at Law, of Lincoln's Inn.

"Mr. Tomkins and Mr. Jencken could not have written such an excellent book as this if they had not devoted many laborious days, probably years, to the study of Roman Law in its entirety, and to research into the laws of continental states, for the purpose of learning what principles of Roman Law are preserved in their jurisprudence."—*Law Times*.

"To those who think with us that the study of the modern civil law has been too much neglected in the education of solicitors, the admirable book whose title we have above announced will be indeed invaluable."—*Law Examination Journal*.

## Tudor's Law of Charitable Trusts.—Second Edition.

Post 8vo., 18s. cloth.

**THE LAW OF CHARITABLE TRUSTS;** with the Statutes to the end of Session 1870, the Orders, Regulations and Instructions, issued pursuant thereto; and a Selection of Schemes. By OWEN DAVIES TUDOR, Esq., of the Middle Temple, Barrister-at-Law; Author of "Leading Cases in Equity;" "Real Property and Conveyancing;" &c. Second Edition.

"No living writer is more capable than Mr. Tudor of producing such a work: his Leading Cases in Equity, and also on the Law of Real Property, have deservedly earned for him the highest reputation as a learned, careful and judicious text-writer. We have

only to add that the index is very carefully compiled."—*Solicitors' Journal*.

"Mr. Tudor's excellent little book on Charitable Trusts. It is in all respects the text-book for the lawyer, as well as a hand-book for reference by trustees and others engaged in the management of charities."—*Law Times*.

## Phillimore's Commentaries on International Law. 2nd Ed.

4 Vols. 8vo., 6l. 3s. cloth; 7l. 3s. calf.

**COMMENTARIES on INTERNATIONAL LAW.** By the **RT. HON. SIR ROBERT PHILLIMORE, Knt.,** Member of H.M.'s Most Hon. Privy Council, and Judge of the High Court of Admiralty of England.

\* \* For the convenience of purchasers, Vol. 1, price 25s., Vol. 2, price 28s., Vol. 3, price 36s., and Vol. 4, price 34s. cloth, may be had separately to complete sets.

*Extract from Pamphlet on "American Neutrality," by GEORGE BENIS (Boston, U.S.).*—"Sir Robert Phillimore, the present Queen's Advocate, and author of the most comprehensive and systematic 'Commentary on International Law' that England has produced."

"The authority of this work is admittedly great, and the learning and ability displayed in its preparation have been recognized by writers on public law both on the Continent of Europe and in the United States. With this necessarily imperfect sketch we must conclude our notice of the first volume of a work which forms an important contribution to the literature of public law. The book is of great utility, and one which should find a place in the library of every civilian."—*Law Magazine*.

"We cordially welcome a new edition of vol. 1. It is a work that ought to be studied by every educated man, and which is of constant use to the public writer and statesman. It will not be out of place to further remark that the arrangement is excellent, the table of contents, the list of authorities are complete, and, therefore, these Commentaries are singularly handy for reference. Altogether this work is a witness to the zeal, industry and ability of Sir R. Phillimore. It will not only be read at home, but also in the United States, and it cannot fail to smooth the way for the thorough international understanding between England and America that the true men of both countries so ardently desire."—*Law Journal*.

"It is the most complete repository of matters bearing upon international law that we have in the language. We need not repeat the commendations of the text itself as a treatise or series of treatises which this Journal expressed upon the appearance of the two first volumes. The reputation of the Author is too well established and too widely known. We content ourselves with testifying to the fulness and thoroughness of the work as a compilation after an inspection of the three volumes (second edition)."—*Boston (United States) Trade Advertiser*.

"Sir Robert Phillimore may well be proud of this work as a lasting record of his ability, learning and his industry. Having read the work carefully and critically, we are able to highly recommend it. Usually when such a work reaches a second edition critical commendation is superfluous, but the present is an exceptional case, because Phillimore's Com-

mentaries will be of the greatest use to many non-professional readers who, as public men and public writers, find it necessary to study international law. It is in itself a well digested body of laws."—*Law Journal (second notice)*.

"We have within a short period briefly noticed the previous volumes of the important work of which the fourth volume is now before us. We have more than once recognized the ability and profound research which the learned author has brought to bear upon the subject, but this last volume strikes us as perhaps the most able and lucid, and, in addition to these merits, it deals with a division of international jurisprudence which is of very great interest, namely, private international law or comity. The issue of a second edition proves that it has attained a position of authority and is favourably received by international jurists. We have no grounds for impugning its accuracy, and as a compilation it must receive our acknowledgment that it is able and learned."—*Law Times*.

"The second edition of Sir Robert Phillimore's Commentaries contains a considerable amount of valuable additional matter, bearing more especially on questions of international law raised by the wars and contentions that have broken out in the world since the publication of the first edition. Having upon a former occasion discussed at some length the general principles and execution of this important work, we now propose to confine ourselves to a brief examination of a single question, on which Sir Robert Phillimore may justly be regarded as the latest authority and as the champion of the principles of maritime law, which, down to a recent period, were maintained by this country, and which were at one time accepted without question by the maritime powers. Sir Robert Phillimore has examined with his usual learning, and established without the possibility of doubt, the history of the doctrine 'free ships, free goods,' and its opposite, in the third volume of his 'Commentaries' (p. 302)."—*Edinburgh Review*, No. 296, October, 1876.

## Underhill's Law of Torts or Wrongs.

Post 8vo., 6s. cloth.

**A SUMMARY OF THE LAW OF TORTS OR WRONGS INDEPENDENT OF CONTRACT,** for the use of Students and Practitioners. By **ARTHUR UNDERHILL, B.A.,** of Lincoln's Inn, Esq., Barrister at Law.

"Mr. Underhill states that his chief aim has been to write for the student, but many who have passed their pupillage and are now enjoying the advantages of considerable practice, may consult these pages with advantage. Mr. Underhill places before his readers good principles of rules of law, which they are placed before the mind in a manner most impressive. Exceptions are not omitted, and the rules are, when necessary, elucidated by sub-rules. The plan is a good one, and has been honestly carried out, and a good

index facilitates reference."—*Justice of the Peace*.

"He has set forth the elements of the law with clearness and accuracy. The little work of Mr. Underhill is inexpensive, and may be generally relied on."—*Law Times*.

"This is a very useful little book on the law of Torts. The book is intended for the student who desires to have principles before entering into particulars, and we know no book on the subject so well adapted for the purpose."—*Law Examination Reporter*.

**Christie's Crabb's Conveyancing.—Fifth Edit. by Shelford.**

Two vols. royal 8vo., 3l. cloth; 3l. 12s. calf.

**CRABB'S COMPLETE SERIES** of **PRECEDENTS** in **CONVEYANCING** and of **COMMON** and **COMMERCIAL FORMS** in Alphabetical Order, adapted to the Present State of the Law and the Practice of Conveyancing; with copious Prefaces, Observations and Notes on the several Deeds. By J. T. CHRISTIE, Esq., Barrister-at-Law. The Fifth Edition, with numerous Corrections and Additions, by LEONARD SHELFORD, Esq., of the Middle Temple, Barrister at Law.

“\* This Work, which embraces both the Principles and Practice of Conveyancing, contains likewise every description of Instrument wanted for Commercial Purposes.”

**General Table of Heads of Prefaces and Forms.**

Abstracts.—Accounts.—Acknowledgments.—Acquittances.—Admittances.—Affidavits, Affirmations or Declarations.—Agreements: to relinquish Business: to Guarantee: for a Lease: before Marriage: for a Partition: between Principal and Agent: for the Sale and Purchase of Estates: for Sale of Copyhold Estates: for Sale of Leaseholds: for Sale of an Advowson.—Annuity: secured on Copyholds.—Annuities: Assignments of.—Appointments: of Guardians.—Apportionment.—Apprenticeship: to the Sea Service: to an Attorney: Assignment of.—Arbitration: Award.—Assignments: Bonds: Leases: Patents: Pews: Policies of Insurance: Reversionary Interests.—Attestations.—Attornments.—Auctions: Particulars of Sale.—Bargains and Sales: of Timber.—Bills of Sale of Goods.—Bonds: Administration: Receiver pending Suit: Post Obit: Stamps on.—Certificates.—Composition: Conveyances in Trust for Creditors.—Conditions: of Sale.—Confirmations.—Consents.—Copartnership: Dissolution of Copartnership.—Covenants: Stamps on: for Production of Title Deeds.—Declarations.—Deeds: I. Nature of Deeds in General: II. Requisites of a Deed: III. Formal parts of Deeds: IV. Where a Deed is necessary or otherwise: V. Construction of Deeds: VI. Avoiding of Deeds: VII. Proof of Deeds: VIII. Admission of Parol Evidence as to Deeds: IX. Possession of Deeds: X. Stamp Duty on Deeds.—Defeasances.—Demises.—Deputation.—Disclaimers.—Disentailing Deeds.—Distress: Notices of.—Dower.—Enfranchisements.—Exchanges.—Feoffments.—Further Charges.—Gifts.—Grants.—Grants of Way or Road.—Indemnities.—Leases: I. Nature of Leases in General: II. Requisites to a Lease: III. Parts of a Lease: IV. Incidents to a Lease: V. Stamps on Leases.—Letters of Credit.—Licences.—Mortgages: of Copyholds: of Leaseholds: Transfer of: Stamp Duty on.—Notes, Orders, Warrants, &c.—Notices: to Quit.—Partition.—Powers: of Attorney.—Presentation.—Purchase Deeds: Conveyance of Copyholds: Assignments of Leaseholds: Stamps on.—Recitals.—Releases or Conveyances: or Discharges.—Renunciations or Disclaimers.—Resignations.—Revocations.—Separation.—Settlements: Stamp Duty on.—Shipping: Bills of Lading: Bills of Sale: Bottomry and Respondentia Bonds: Charter Parties.—Surrenders.—Wills: 1. Definition of Will and Codicil: 2. To what Wills the Act 7 Will. 4 & 1 Vict. c. 26 does not apply: 3. What may be disposed of by Will: 4. Of the capacity of Persons to make Wills: 5. Who may or may not be Devises: 6. Execution of Wills: 7. Publication of Wills: 8. Revocation of Wills: 9. Lapse of Devises and Bequests: 10. Provisions and Clauses in Wills: 11. Construction of Wills.

*From the Law Times.*

“The preparation of it could not have been confided to more able hands than those of Mr. Shelford, the veteran authority on real property law. With the industry that distinguishes him he has done ample justice to his task. In carefulness we have in him a second Crabb, in erudition Crabb's superior; and the result is a work of which the original author would have been proud, could it have appeared under his own auspices. It is not a book to be quoted, nor indeed could its merits be exhibited by quotation. It is essentially a book of practice, which can only be described in rude outline and dismissed with applause, and a recommendation of it to the notice of those for whose service it has been so laboriously compiled.”

*From the Solicitors' Journal.*

“The collection of precedents contained in these two volumes are all that could be desired. They are particularly well adapted for Solicitors, being of a really practical character. They are moreover free from the useless repetitions of common forms that so much increase the bulk and expense of some collections that we could name. We know not of any collection of conveyancing precedents that would make it so possible for a tyro to put together a presentable draft at an emergency, or which are more handy in every respect, even for

the experienced draftsman. Mr. Shelford has proved himself in this task to be not unworthy of his former reputation. To those familiar with his other works it will be a sufficient recommendation of this.”

*From the Law Magazine and Review.*

“To this important part of his duty—the remodelling and perfecting of the forms—even with the examination which we have already been able to afford this work, we are able to affirm, that the learned editor has been eminently successful and effected valuable improvements.”

*From the Law Chronicle.*

“It possesses one distinctive feature in devoting more attention than usual in such works to forms of a commercial nature. We are satisfied from an examination of the present with the immediately preceding edition that Mr. Shelford has very considerably improved the character of the work, both in the prefaces and in the forms. In the whole the two volumes of Crabb's Precedents, as edited by Mr. Leonard Shelford, will be found extremely useful in a solicitor's office, presenting a large amount of real property learning, with very numerous precedents: indeed we know of no book so justly entitled to the appellation of 'handy' as the fifth edition of Mr. Crabb's Precedents.”

## Mosely's Articled Clerks' Handy-Book.

12mo., 7s. cloth.

A PRACTICAL HANDY-BOOK of ELEMENTARY LAW, designed for the use of Articled Clerks, with a Course of Study and Hints on Reading for the Intermediate and Final Examinations. By M. S. MOSELY, Solicitor, Clifford's Inn Prizeman, M. T. 1867.

## Rouse's Copyhold Manual.—Third Edition.

12mo., 10s. 6d. cloth.

THE COPYHOLD ENFRANCHISEMENT MANUAL, giving the Law, Practice and Forms in Enfranchisements at Common Law and under Statute, and in Commutations; with the Values of Enfranchisements from the Lord's various Rights: the Principles of Calculation being clearly explained, and made practical by numerous Rules, Tables and Examples. Also all the Copyhold Acts, and several other Statutes and Notes. Third Edition. By ROLLA ROUSE, Esq., of the Middle Temple, Barrister at Law, Author of "The Practical Conveyancer," &c.

"This new edition follows the plan of its predecessor, adopting a fivefold division:—1. The Law. 2. The Practice, with Practical Suggestions to Lords, Stewards and Copyholders. 3. The Mathematical consideration of the Subject in all its Details, with Rules, Tables and Examples. 4. Forms. 5. The Statutes, with Notes. Of these, we can only repeat what we have said before, that they exhaust the subject; they give to the practitioner all the materials required by him to conduct the enfranchisement of a copyhold, whether voluntary or compulsory."—*Law Times*.

"When we consider what favor Mr. Rouse's Practical Man and Practical Conveyancer have found with the profession, we feel sure the legal

world will greet with pleasure a new and improved edition of his copyhold manual. The third edition of that work is before us. It is a work of great practical value, suitable to lawyers and laymen. We can freely and heartily recommend this volume to the practitioner, the steward and the copyholder."—*Law Magazine*.

"Now, however, that copyhold tenures are being frequently converted into freeholds, Mr. Rouse's treatise will doubtless be productive of very extensive benefit; for it seems to us to have been very carefully prepared, exceedingly well composed and written, and to indicate much experience in copyhold law on the part of the author."—*Solicitors' Journal*.

## Shelford's Succession, Probate and Legacy Duties. Second Edition.

12mo., 16s. cloth.

THE LAW relating to the PROBATE, LEGACY and SUCCESSION DUTIES in ENGLAND, IRELAND and SCOTLAND, including all the Statutes and the Decisions on those Subjects: with Forms and Official Regulations. By LEONARD SHELFORD, Esq., of the Middle Temple, Barrister-at-Law. The Second Edition, with many Alterations and Additions.

"The book is written mainly for solicitors. Mr. Shelford has accordingly planned his work with careful regard to its practical utility and daily use."—*Solicitors' Journal*.

"One of the most useful and popular of his productions, and being now the text book on the

subject nothing remains but to make known its appearance to our readers. Its merits have been already tested by most of them."—*Law Times*.

"On the whole Mr. Shelford's book appears to us to be the best and most complete work on this extremely intricate subject."—*Law Magazine*.

## Davis's Law of Registration and Elections.

One small 12mo. vol., 15s. cloth.

MANUAL OF THE LAW AND PRACTICE OF ELECTIONS AND REGISTRATION. Comprising all the Statutes, with Notes and Introduction, and a Supplement containing the Cases on Appeal down to 1869, the Rules relating to Election Petitions, and a complete Index to the whole Work. By JAMES EDWARD DAVIS, Esq., Barrister at Law, Author of "Manual of Practice and Evidence in the County Courts," &c.

THE SUPPLEMENT may be had separately, price 3s. sewed.

## Kelly's Conveyancing Draftsman.

Post 8vo., 6s. cloth.

**THE DRAFTSMAN:** containing a Collection of Concise Precedents and Forms in Conveyancing; with Introductory Observations and Practical Notes. By JAMES HENRY KELLY.

"This is a thoroughly practical book, designed for the solicitor and the student. Mr. Kelly has rightly conceived the duties of a conveyancer; and his short introductory recommendations should be attentively considered by all who are anxious to become safe draftsmen. The author gives a few forms under each heading, confining himself to such as are likely to be of everyday use in the office. This volume ought to be popular, as it combines law and practice."—*Law Times*.

"Mr. Kelly's object is to give a few precedents of each of these instruments which are most commonly required in a solicitor's office, and for which precedents are not always to be met with in the ordinary books on conveyancing. The idea is a good one, and the precedents contained in the

book are, generally speaking, of the character contemplated by the author's design. We have been favourably impressed with a perusal of several of the precedents in this book; and practitioners who have already adopted forms of their own will probably find it advantageous to collate them with those given by Mr. Kelly. Each set of precedents is prefaced by a few terse and practical observations."—*Solicitors' Journal*.

"Such statements of law and facts as are contained in the work are accurate."—*Law Journal*.

"It contains matter not found in the more ambitious works on conveyancing, and we venture to think that the student will find it a useful supplement to his reading on the subject of conveyancing."—*Law Examination Journal*.

## Brabrook's Co-operative and Provident Societies.

12mo., 6s. cloth.

**THE LAW** relating to INDUSTRIAL and PROVIDENT SOCIETIES, including the Winding-up Clauses, with a Practical Introduction, Notes, and Model Rules, to which are added the Law of France on the same subject, and Remarks on Trades Unions. By EDWARD W. BRABROOK, F.S.A., of Lincoln's Inn, Esq., Barrister at Law, Assistant Registrar of Friendly Societies in England.

## Woolrych's Law of Sewers.—Third Edition.

8vo., 12s. cloth.

**A TREATISE** of the LAW of SEWERS, including the DRAINAGE ACTS. By HUMPHRY W. WOOLRYCH, Serjeant at Law. Third Edition, with considerable Additions and Alterations.

"Two editions of it have been speedily exhausted, and a third called for. The author is an accepted authority on all subjects of this class."—*Law Times*.

"This is a third and greatly enlarged edition of a book which has already obtained an established reputation as the most complete discussion of the subject adapted to modern times. Since the treatise of Mr. Serjeant Callis in the early part of the 17th century,

no work filling the same place has been added to the literature of the Profession. It is a work of no slight labour to digest and arrange this mass of legislation; this task, however, Mr. Serjeant Woolrych has undertaken, and an examination of his book will, we think, convince the most exacting that he has fully succeeded. No one should attempt to meddle with the Law of Sewers without its help."—*Solicitors' Journal*.

## Grant's Law of Corporations in General.

Royal 8vo., 26s. boards.

**A PRACTICAL TREATISE** on the LAW of CORPORATIONS in GENERAL, as well Aggregate as Sole; including Municipal Corporations; Railway, Banking, Canal, and other Joint-Stock and Trading Bodies; Dean and Chapters; Universities; Colleges; Schools; Hospitals; with *quasi* Corporations aggregate, as Guardians of the Poor, Churchwardens, Churchwardens and Overseers, etc.; and also Corporations sole, as Bishops, Deans, Canons, Archdeacons, Parsons, etc. By JAMES GRANT, Esq., of the Middle Temple, Barrister at Law.

## J. Chitty, jun's. Precedents in Pleading.—Third Edition.

Complete in 1 vol. royal 8vo., 38s. cloth.

**J. CHITTY, JUN'S. PRECEDENTS in PLEADING:** with copious Notes on Practice, Pleading and Evidence. Third Edition. By the late TOMPSON CHITTY, Esq., and by LEOFRIC TEMPLE, R. G. WILLIAMS, and CHARLES JEFFERY, Esquires, Barristers at Law. (Part 2 may, for the present, be had separately, price 18s. cloth, to complete sets.)

## Scriven's Law of Copyholds.—5th Edit. by Stalman.

Abridged in 1 vol. royal 8vo., 30s. cloth; 36s. calf.

**A TREATISE ON COPYHOLD, CUSTOMARY FREEHOLD and ANCIENT DEMESNE TENURE**, with the Jurisdiction of Courts Baron and Courts Leet. By JOHN SCRIVEN, Serjeant at Law. Fifth Edition, containing references to Cases and Statutes to 1867. By HENRY STALMAN, of the Inner Temple, Esq., Barrister at Law.

"No lawyer can see or hear the word 'copyhold' without associating with it the name of Scriven, whose book has been always esteemed not merely the best but the only one of any worth. Until a commutation of the tenure for a fixed rent-charge, after the manner of a tithe commutation, is compelled by the legislature, this treatise will lose none of its usefulness to the solicitors in the country."—*Law Times*.

"It would be wholly superfluous to offer one word of comment on the general body of the work. Scriven on Copyholds has for exactly

half a century been not only a standard work but one of unimpeachable authority, and in its pages the present generation has learned all that is known of copyhold and customary tenures. All that is necessary to say is, that in the present edition of Scriven on Copyholds Mr. Stalman has omitted what it was useless to retain, and inserted what it was necessary to add. Until copyholds have disappeared utterly, it is at least certain that Scriven on Copyholds by Stalman will hold undisputed sway in the profession."—*Law Journal*.

## Shelford's Law of Railways.—Fourth Edition by Glen.

In 2 thick vols. royal 8vo., 63s. cloth; 75s. calf.

**SHELFORD'S LAW OF RAILWAYS**; containing the whole of the Statute Law for the Regulation of Railways in England, Scotland and Ireland: with copious Notes of Decided Cases upon the Statutes, Introduction to the Law of Railways, and Appendix of Official Documents. Fourth Edition. By WILLIAM CUNNINGHAM GLEN, Barrister at Law, Author of the "Law of Highways," "Law of Public Health and Local Government," &c.

*From the LAW MAGAZINE.*

"Though we have not had the opportunity of going conscientiously through the whole of this elaborate compilation, we have been able to devote enough time to it to be able to speak in the highest terms of the judgment and ability with which it has been prepared. Its execution quite justifies the reputation which Mr. Glen has already acquired as a legal writer, and proves that no one could have been more properly singled out for the duty he has so well discharged. The work must take its unquestionable position as the leading *Manual of the Railway Law of Great Britain*. The cases seem to have been examined, and their effect to be stated with much care and accuracy, and no channel from which information could be gained has been neglected. Mr. Glen, indeed, seems to be saturated with knowledge of his subject. The value of the work is greatly increased by a number of supplemental decisions, which give all the cases up to the time of publication, and by an index which appears to be thoroughly exhaustive."

*From the LAW TIMES.*

"Mr. Glen has done wisely in preserving that reputation, and, as far as possible, the text of Shelford—though very extensive alterations and additions have been required. But he has a claim of his own. He is a worthy successor of the original author, and possesses much of the same industry, skill in arrangement and astuteness in enumerating the points really decided by cited cases. But we have said enough of a work already so well known. It will have a place not in the library of the lawyer alone. It is a book which every railway office should keep on its shelf for reference."

*From the LAW INTELLIGENCER.*

"Mr. Glen has modestly founded his work as a superstructure on that of Mr. Leonard Shelford, but he has certainly claims to publish it as a purely independent composition. The toil has been as great, and the reward ought to be as complete, as if Mr. Glen had disregarded all his predecessors in the production of treatises on

railway law. Since the year 1864 he has been unceasingly engaged in collecting materials, and though he has been ready for the printer for some time, and has delayed the appearance of the volumes in the expectation of legislative changes in railway law, yet he has expended full five years of care and attention on his work. Let us hope that he will have no cause to think his labour has been in vain. At any rate we may venture to predict that Mr. Cunningham Glen's edition of Shelford on Railways will be the standard work of our day in that department of law."

*From the JUSTICE OF THE PEACE.*

"Far be it from us to undervalue Mr. Shelford's labours, or to disparage his merits. But we may nevertheless be permitted to observe that what has hitherto been considered as the 'best work on the subject' (Shelford) has been immeasurably improved by the application of Mr. Glen's diligence and learning. Sufficient, however, has been done to show that it is in every respect worthy of the reputation which the work has always enjoyed. We feel little doubt that the credit of that work will be greatly increased by Mr. Glen's instrumentality, and that not only will he have ably maintained its reputation by his successful exertions, but that he will have added materially to it."

*From the SOLICITORS' JOURNAL.*

"The practitioner will find here collected together all the enactments bearing on every possible subject which may come before him in connection with railways or railway travelling. Whatever questions may arise the lawyer who has this book upon his shelves, may say to himself 'If there has been any legislation at all connected with this branch of the subject I shall at once find it in Shelford,' and it need not be said that on this account the book will be a very 'comfortable' one to possess. The collection is equally exhaustive in the matter of rules, orders, precedents and documents of official authority. To sum up our review, as a collection of statutes and general information the work will prove extremely useful, because in these respects it is so perfectly exhaustive."

## Crump's Marine Insurance and General Average.

Royal 8vo., 21s. cloth; 26s. calf.

THE PRINCIPLES of the LAW RELATING to MARINE INSURANCE and GENERAL AVERAGE in England and America, with occasional references to French and German Law. By FREDERIC OCTAVIUS CRUMP, of the Middle Temple, Esq., Barrister at Law.

"This is decidedly a clever book. We always welcome cordially any genuine effort to strike out a new line of legal exposition, not merely because such effort may more effectually teach law, but because it may exhibit a better method than we now possess of expressing law. The author does not venture to use the term 'codification' in speaking of the design of this book. He is content if he has made a single step in advance towards simplification, and so much merit we have no hesitation in awarding to him. From the extracts we have made it is manifest that the author has followed the fashion neither of the ordinary text book nor the plan of a digest of cases, but that he has developed a method nearly approaching to 'codification.' We have been at pains to search the book for many of the most recent cases in marine insurance, and although some of them are exactly of a character to puzzle and embarrass a codifier, Mr. Crump has dealt successfully with them. We think we may fairly congratulate the author upon the production of a work original in design, excellent in arrangement, and as complete as could fairly be expected."—*Law Journal*.

"Alphabetically arranged this work contains a number of the guiding principles in the judge-made law on this subject, which has got into such a tangle of precedents that a much less careful digest than that under the above title would have been welcome to students as well as merchants. Mr. Crump has made a very commendable effort at brevity and clearness."—*Economist*.

"The plan of the work differs materially, and we think, advantageously, from the ordinary text-book. We have examined several of Mr. Crump's propositions in order to test him on these points, and the result is decidedly in his favour. We have no hesitation in commending the plan of Mr. Crump's book; its use in actual practice must, of course, be the ultimate gauge of its accuracy and completeness; but from the tests that we have applied we have little doubt that it will stand the ordeal satisfactorily."—*Athenæum*.

"His design is to compile a digested summary of rules, tersely expressed and easy of reference; and though such a work can never supersede treatises like those of Arnould, Phillips, or Duer, he has produced what will be a very useful manual of reference and will

guide the practitioner to the sources where he will find the principles more fully developed. The work, which must have involved great labour, appears to us to have been executed with fulness, accuracy and fidelity, and its value is much increased by references not only to English and American decisions and text-writers, but to the French and German law on the same subject. Considering the narrow compass within which it is comprised, we have been surprised to find how complete and comprehensive it appears to be; and if further experience should justify the expectations which our perusal of it induces us to form, Mr. Crump will not be disappointed in his hope that he has made 'a step in advance towards simplification—not to use the term codification—of the law.'"—*Solicitors' Journal*.

"There are many portions of it well arranged, and where the law is carefully and accurately stated."—*Law Magazine*.

"We rejoice at the publication of the book at the head of this notice. Mr. Crump is a bold man, for he has positively made an innovation. Instead of a ponderous tome, replete with obsolete law, useless authorities and antiquated quotations, we have a handy, clearly-written and well-printed book, seemingly containing the whole law on the subject, in the shape of a digest of decided cases, in the very words of the judges, and leaving nothing doubtful and misleading to beguile the reader. Mr. Crump's book seems very perfect, and is certainly very clear in its arrangement and complete in its details, conscientiously going into the most minute points and omitting nothing of importance."—*Irish Law Times*.

"The subject-matter of the book in every instance is printed in large type, and the clauses followed by smaller letters of reference. This makes the work convenient for consultation, and the law cases being appended to every paragraph with quotations from the laws of foreign countries, its conciseness in the mode of explanation tends to render the author's reasonings intelligible more readily than they would otherwise have been if overlaid by laborious dissertations upon the cases and effects of decisions on disputed points. Mr. Crump, we may observe, in this treatise of the law of Average and Insurance, has supplied a ready armoury of reference."—*Shipping and Mercantile Gazette*.

## Baylis's Law of Domestic Servants.—By Monckton.

Foolscap 8vo., 2s. cloth.

THE RIGHTS, DUTIES and RELATIONS of DOMESTIC SERVANTS and their MASTERS AND MISTRESSES. With a short Account of the Servants' Institutions, &c. and their advantages. By T. HENRY BAYLIS, M.A., of Brasenose College, Oxford, Barrister at Law of the Inner Temple. Fourth Edition, with considerable Additions, by EDWARD P. MONCKTON, Esq., B.A., of Trinity College, Cambridge, Barrister at Law of the Inner Temple.

"An excellent manual of the subject of which it treats."—*Law Times*.

"This little work thoroughly deserves the success it has gained. It contains in a small

compass the law on the important subject to which it relates. This volume will be found a convenient handbook to the leading authorities on the subject."—*Solicitors' Journal*.

# Magisterial Works by Mr. G. C. Oke

(LATE CHIEF CLERK TO THE LORD MAYOR OF LONDON).

**Oke's Magisterial Synopsis ; a Practical Guide for Magistrates, their Clerks, Solicitors, and Constables ; comprising Summary Convictions and Indictable Offences, with their Penalties, Punishments, Procedure, &c., alphabetically and tabularly arranged : with a Copious Index. 12th Edition, much enlarged.** By THOMAS W. SAUNDERS, Esq., Barrister at Law, Recorder of Bath. In 2 vols. 8vo. 60s. cloth ; 68s. hf.-calf ; 70s. calf.

"Twelve editions in twenty-eight years say more for the practical utility of this work than any number of favourable reviews. Yet we feel bound to accord to the learned Recorder of Bath the praise of having fully maintained in the present edition the well-earned reputation of this useful book. The many important statutes passed since the eleventh edition appeared, only four years since, and which either impose new duties upon or modify the old law administered by Justices of the Peace, have been carefully incorporated in the present work. Among these we may notice in the legislation of the last session alone the Acts concerning Cruelty to Animals, Drugging of Animals, Elementary Education, Industrial and Provident Societies, Merchant Shipping, the Poor Law, Salmon Fishing, and Wild Fowl Protection. A copious Index of over 100 pages offers every facility of reference which can be desired, in addition to the alphabetical and tabular arrangement of offences, with their penalties, punishments, and procedure."—*Law Magazine*, February, 1877.

"All we can do in reviewing a new edition of a work, on the general plan of which the profession has justly conferred so distinguished a mark of approval as is involved in a twelfth edition, is to see whether the statutes and cases which have been passed and decided within the four years which have elapsed since the last edition have been duly incorporated. They appear, on the points on which we have tested the book, to have been noticed by Mr. Saunders with considerable care. The Index has been very greatly improved, and has become a valuable feature of the work."—*Solvent's Journal*, Oct. 25th, 1876.

"The industrious, capable and painstaking Recorder of Bath (Mr. T. W. Saunders) has edited the twelfth edition of Oke's Magisterial Synopsis. The law administered by magistrates, like almost every other branch of our jurisprudence, goes on growing almost every day of the legal year, and a new edition of such a work as this every few years means no small amount of labour on the part of the editor. The array of statutes which have been passed during the last four years requiring the attention of justices is formidable enough, as appears by Mr. Saunders's preface. We are glad to see that Mr. Saunders has bestowed great care in the revision of the Index, which is now a feature in the work."—*Law Times*, Oct. 21st, 1876.

"The first edition of this work was published in 1848, and contained 410 pages. The twelfth edition has now been published, and contains 1,379 pages. Both of these facts have their moral. The first proves how great a reward waits upon a genuine success in legal literature; the second proves what immense labour is cast upon the author who endeavours to win the reward. We believe the issue of twelve editions of a large law book within the space of twenty-eight years to be without precedent in the history of legal literature, and we are quite sure that the result has in this case not at all exceeded the merit of the work. It will be remembered that the first eleven editions were issued by Mr. Oke himself; so that, although he lived too brief a time for his friends and for the public good, yet time was given him to establish his own reputation, and to gain the prize for which he strove. The new edition now before us has been brought out under the superintendence of Mr. Saunders, the Recorder of Bath, whose name is well known in legal literature. Mr. Saunders has for many years made many of the subjects which fall within the scope of magisterial jurisdiction his special study, and we are not at all surprised that he should have been selected to carry on the work of Mr. Oke. Although only four years have elapsed since the eleventh edition of the work appeared, and although the new editor was in no wise called upon to recast the form or manner of the work, or to change in any way the nature of its contents, yet it must not be supposed that his task has been at all limited to the mere lending of his name to the new edition imperatively required by the exhaustion of the former issue. The list of statutes passed since 1872, and having near relation to magisterial work, is far from small; and, as we have often had occasion to observe, the provisions of every Act of Parliament designed to improve the sanitary and social condition of the community derive their compulsory force from the summary procedure taken before justices. A host of acts with these salutary objects have been passed since 1872, and all these have been introduced into the work, and put in their proper places, so that they can be found, as wanted, by justices, justices' clerks and solicitors."—*Law Journal*, Nov. 18th, 1876.

**Oke's Magisterial Formulist ; being a Complete Collection of Forms and Precedents for practical use in all Cases out of Quarter Sessions, and in Parochial Matters, by Magistrates, their Clerks, Attornies and Constables. Fifth Edition, enlarged and improved.** By THOMAS W. SAUNDERS, Esq., Barrister at Law and Recorder of Bath. 8vo. 38s. cloth ; 42s. half-calf ; 43s. calf.

"In Mr. Saunders's preface will be found an enumeration of statutes which were not even in embryo at the time when Mr. Oke brought out the last edition of his valuable Formulist. Therefore Mr. Saunders has not been called

upon to perform the functions of an annotator merely. He has had to create just as Mr. Oke created when he wrote his book. This of course has necessitated the enlargement and remodelling of the Index. No work,

**Mr. Oke's Magisterial Works—continued.**

probably, is in more use in the offices of magistrates than Oke's Formulist. That it should be reliable and comprehend recent enactments is of the very first importance. In selecting Mr. Saunders to follow in the steps of Mr. Oke the publishers exercised wise discretion, and we congratulate both author and publishers upon the complete and very excellent manner in which this edition has been prepared and is now presented to the profession."—*Law Times*, March 4th, 1876.

"In noticing the fifth edition of the companion work to the Synopsis we cannot forbear to express again our regret that the original author of these two famous books is no longer among us, able and willing to give to the legal world new editions of those treatises which are likely to preserve their reputation as long as the law which they teach lasts. The duty of editing anew the Magisterial Formulist has fallen upon the Recorder of Bath, whose experience and industry ought to furnish a guarantee that in his hands a work of so much value and celebrity will not lose any of its former attributes. There is not a member of this most important and intelligent class of men (magistrates' clerks) who has not learned to look upon Oke's Formulist as a trusty friend and safe guide in the moment of need, and who will not welcome an edition which embraces the novel matter required by fresh legislation. When we find that 900 pages are occupied with these forms, and that the index alone consists of 100 pages, we can form some idea of the task which Mr. Saunders has undertaken, the performance of which ought to add to his repute. Mr. Saunders has compiled a new table of statutes connected with the forms, an addition which will certainly be found useful."—*Law Journal*, March 4th, 1876.

"This well-known work stands no longer

in any need of introduction or recommendation; it is not so much the convenience as the necessity of every person who has to conduct or advise the conduct of a magistrate's business. Although all will join with the present editor in lamenting that the public can no longer command the services of the accurate and experienced author, yet we see no reason to think that they will suffer through the duty of re-editing this valuable collection of forms having devolved upon Mr. Saunders, who seems to have performed his task with the care and accuracy which he has accustomed us to expect from him. His labour has not been a light one, for, as he points out, recent legislation has not only added to the already wide field of magisterial duties, but has also, by the process of consolidation, as well as by considerable substantive alterations, varied the necessary forms. These changes have been duly followed, and the work, which was last edited in 1868, may now be relied upon as a safe and complete guide in the matter it relates to."—*Solicitors' Journal*, April 29th, 1876.

"The last edition of this very useful work was published in 1858, since which time, in addition to numerous amending and consolidating acts bearing upon magistrates' law, other important statutes have come into effect. New forms, applicable to these and other acts, have been prepared with much care by the learned editor of the present edition (Mr. Saunders), while those which have become inapplicable have been eliminated. Besides the table of contents, a table of statutes, connected with the forms, has been added, and an unusually copious index leaves nothing to be desired by those who have to administer the branch of the law to which Oke's Magisterial Formulist relates."—*Law Magazine*, August, 1876.

**Oke's Handy Book of the Game Laws; containing the whole Law as to Game, Licences and Certificates, Gun Licences, Poaching Prevention, Trespass, Rabbits, Deer, Dogs, Birds and Poisoned Grain, Sea Birds, Wild Birds and Wild Fowl, and the Rating of Game throughout the United Kingdom. Systematically arranged, with the Acts, Decisions, Notes and Forms. Third Edition. By J. W. WILLIS BUND, M.A., LL.B., of Lincoln's Inn, Esq., Barrister at Law; Vice-Chairman of the Severn Fishery Board, and author of "The Law relating to Salmon Fisheries in England and Wales," &c., &c. Post 8vo., 14s. cloth.**

"The task of bringing out a third edition has fallen upon Mr. Bund. Several important statutes bearing upon the subject have been passed since 1863, and many important decisions given by the courts. With these the author has dealt in a careful and complete manner, and on the whole he seems to have succeeded in maintaining the just reputation of the work."—*Law Journal*.

"Mr. Willis Bund has edited a third edition of 'Oke's Game Laws.' The changes in the law by statute and the reported cases to the end of 1876 are duly noted. Notwithstanding Mr. Bund's modest estimate of his labour, we think he sustains the reputation of the author."—*Law Times*.

"The present publication has, we are happy to say, fallen into the able hands of Mr. Willis Bund. In conclusion, we may observe that the present edition of the above work will be found by legal men or others who require any reliable information on any subject connected

with the Game Laws, of the greatest practical utility, and that landed proprietors, farmers and sportsmen will find Oke's Game Laws an invaluable addition to their libraries, and an easy means of enlightening themselves on a subject which closely affects them."—*Land and Water*.

"Mr. Bund's digest of the new laws passed since the death of Mr. Oke is admirable. The editor in the present instance deserves unqualified praise, for, by way of assisting the reader, there is the contents table showing the particular matters dealt with under each separate chapter, an alphabetical list of cases cited with the page in which they may be found, a table of statutes referred to with their pages, and a most comprehensive index."—*Worcester Herald*.

"Under the competent care of Mr. Bund Messrs. Butterworth have issued a third edition of Oke's excellent handy-book upon

[Continued over leaf.]

## Mr. Oke's Magisterial Works—continued.

the Game Laws. Since the last edition was published such new measures as the Gun License Act, the Wild Birds Preservation Act, the Sea Birds Preservation Act, and others in the same direction have been passed. Of these full cognizance is taken in the new issue. Signally comprehensive and exact is the information supplied, and the volume is an indispensable companion, not only to country gentlemen and magistrates, but to all dealers

in game and every person possessing a gun."—*Sunday Times*, April 22nd, 1877.

"A book on the Game Laws, brought up to the present time, and including the recent Acts with regard to wild fowl, &c., was much needed, and Mr. Willis Hunt has most opportunely supplied the want by bringing out a revised and enlarged edition of the very useful handy-book of which the late Mr. Oke was the author."—*The Field*.

**Oke's Laws as to Licensing Inns, 1874, &c. &c. ; containing the Licensing Acts, 1872 and 1874, and the other Acts in force as to Alehouses, Beer-houses, Wine and Refreshment-houses, Shops, &c., where Intoxicating Liquors are sold, and Billiard and Occasional Licensees. Systematically arranged, with Explanatory Notes, the authorized Forms of Licensees, Tables of Offences, Index, &c. Second Edition, by W. C. GLEN, Esq., Barrister at Law. Post 8vo. 10s. cloth.**

"Mr. Glen has done his work well. He has made the book of 1872 available as a book of reference in 1874. It is very fortunate that there is a well indexed treatise to refer to."—*Law Journal*.

"Mr. Oke has brought out by far the best edition of the act, or perhaps we should say a treatise on it. Everything appears to be given

which can by possibility be required, and the forms are abundant."—*Law Times*.

"The book will no doubt at once take its place as the recognized guide for those who have to do with licensing law. The table of offences is especially valuable."—*Solicitors' Journal*.

**Oke's Law of Turnpike Roads; comprising the whole of the General Acts now in force, including those of 1861; the Acts as to Union of Trusts, for facilitating Arrangements with their Creditors, as to the interference by Railways with Roads, their non-repair, and enforcing contributions from Parishes, &c., practically arranged. With Cuses, copious Notes, all the necessary Forms, and an elaborate Index, &c. By GEORGE C. OKE. Second Edition. 12mo. 18s. cloth.**

## Coombs' Manual of Solicitors' Bookkeeping.

8vo., 10s. 6d. cloth.

**A MANUAL of SOLICITORS' BOOKKEEPING: comprising Practical Exemplifications of a Concise and Simple Plan of Double Entry, with Forms of Account and other Books relating to Bills, Cash, &c., showing their Operation, giving Instructions for Keeping, Posting and Balancing them, and Directions for Drawing Costs, adapted to a large or small, sole or partnership business. By W. B. COOMBS, Law Accountant and Costs Draftsman.**

- *The various Account Books described in the above System, the forms of which are copyright, may be had from the Publishers at the prices stated in the work, page 274.*

"It adds some excellent instructions for drawing bills of costs. Mr. Coombs is a practical man, and has produced a practical book."—*Law Times*.

"He has performed his task in a masterly manner, and in doing so has given the why and the wherefore of the whole system of Solicitors' Bookkeeping. The volume is the most comprehensive we remember to have seen on the subject, and from the clear and intelligible manner in which the whole has been worked out it will render it unexceptionable in the hands of the student and the practitioner."—*Law Magazine*.

"So clear do the instructions appear, that a

tyro of average skill and abilities, with application, could under ordinary circumstances open and keep the accounts of a business; and, so far as we can judge, the author has succeeded in his endeavour to divest Solicitors' Bookkeeping of complexity, and to be concise and simple, without being inefficient."—*Law Journal*.

"This is not merely a valuable addition to the library of every solicitor, it is a book that every attested clerk, now that intermediate examinations embrace bookkeeping, will be read with profit and benefit to himself. It may be fairly said to exhaust the subject of which it treats."—*Solicitors' Journal*.

## Grant's Bankers and Banking Companies.—Third Edit. Continued to 1876. By R. A. Fisher.

8vo., 28s. cloth, 33s. calf.

GRANT'S TREATISE ON THE LAW RELATING TO BANKERS AND BANKING COMPANIES. Third Edition. With an Appendix, containing the Statutes in force, and Supplement, to 1876. By R. A. FISHER, Esq., Judge of County Courts.

"Eight years sufficed to exhaust the second edition of this valuable and standard work, we need only now notice the improvements which have been made. We have once more looked through the work, and recognize in it the sterling merits which have acquired for it the high position which it holds in standard legal literature. Mr. Fisher has annotated all the recent cases."—*Law Times*.

"Prior to the publication of Mr. Grant's work on this subject, no treatise containing the required information existed; and, since its appearance, such important alterations respecting banks and bankers have been introduced, that the work needed in many parts entire reconstruction and arrangement. The last two editions have been entrusted to the care of the gentleman whose name is attached to the work. Mr. Fisher's name is in itself a guarantee that his duties of editor have been ably and conscientiously performed. In this respect we can assure those interested in the

subject of this book, that they will in no respect be disappointed; obsolete and immaterial matter has been eliminated, and the present edition presents the existing law of bankers and banking companies as it at present exists."—*Justice of the Peace*.

"It is eight years since Mr. Fisher published the second edition of this practical book, and it now appears again re-edited by the same hand. Its steady sale shows that the public for whom it is written have recognized the kindness that was meant them, and makes a more elaborate recommendation superfluous. We must add, however, that the additions to the work, and the alterations in it which Mr. Fisher has made, are, as far as we can judge, real improvements, and that he has not failed to follow out the recent cases. The book used with care will no doubt be of great practical service to bankers and their legal advisers."—*Solicitors' Journal*.

## Hertslet's Commercial Treaties.

12 vols., 8vo., 14l. 15s. boards.

HERTSLET'S TREATIES of Commerce, Navigation, Slave Trade, Post Office Communications, Copyright, &c., at present subsisting between Great Britain and Foreign Powers. Compiled from Authentic Documents by EDWARD HERTSLET, Esq., C.B., Librarian and Keeper of the Papers of the Foreign Office.

\* \* Vol. 1, price 12s.; Vol. 2, price 12s.; Vol. 3, price 18s.; Vol. 4, price 18s.; Vol. 5, price 20s.; Vol. 6, price 25s.; Vol. 7, price 30s.; Vol. 8, price 30s.; Vol. 9, price 30s.; Vol. 10, price 30s.; Vol. 11, price 30s.; Vol. 12, price 40s.; may be had separately to complete sets. Vol. 12 includes an Index of Subjects to the Twelve published Volumes, which Index is also sold separately, price 10s. cloth.

## Hertslet's Treaties on Trade and Tariffs.

In royal 8vo.

TREATIES and TARIFFS regulating the Trade between Great Britain and Foreign Nations, and Extracts of the Treaties between Foreign Powers, containing "Most Favoured Nation" Clauses applicable to Great Britain in force on the 1st January, 1875. By EDWARD HERTSLET, Esq., C.B., Librarian and Keeper of the Papers of the Foreign Office. Part I.—*Austria*, 7s. 6d. cloth. Part II.—*Turkey*, 15s. cloth. Part III.—*Italy*, 15s. cloth.

"This is one of a series of valuable works bearing on the trade of England and foreign nations, the present instalment dealing with

our commercial relations with Turkey."—*Standard*.

## Wills on Circumstantial Evidence.—Fourth Edition.

8vo., 10s. cloth.

AN ESSAY on the PRINCIPLES of CIRCUMSTANTIAL EVIDENCE. Illustrated by numerous Cases. By the late WILLIAM WILLS, Esq. Fourth Edition, edited by his Son, ALFRED WILLS, Esq., Barrister at Law.

## Fulton's Manual of Constitutional History.

Post 8vo., 7s. 6d. cloth.

A MANUAL OF CONSTITUTIONAL HISTORY, founded upon the Works of Hallam, Creasy, May and Broom, comprising all the fundamental principles and the leading cases in Constitutional Law. By FORREST FULTON, LL.B., B.A., University of London, and of the Middle Temple, Esq., Barrister-at-Law.

"Copious use has been made by Mr. Fulton of all the leading authorities on the subject, and he writes clearly and intelligibly. There is a full and carefully prepared index."—*Law Times*.

"We can fairly say the book is well done, and the object of aiding the student in his first entry on the wide field of Constitutional Law and History is attained."—*The Law*.

"Mr. Fulton appears to have taken great pains to make it thoroughly useful and reliable."—*Civil Service Gazette*.

"For practical information and for student's purposes Mr. Fulton's is by far the best Manual of Constitutional History with which we are acquainted."—*Irish Law Times*.

"So far as it goes, it is not without merit. The former part is written with care and clearness. Notwithstanding defects, we think

Mr. Fulton's a fairly good elementary manual."—*Solicitors' Journal*.

"The general reader will be much pleased with the chapters on the privileges of parliament."—*Standard*.

"A good reference book, as well as a book that ought to be read in the first instance straight through."—*John Bull*.

"The author has spared no pains, and has succeeded in the somewhat difficult task of presenting the results of a wide range of reading in a well-digested form. Mr. Fulton may be congratulated upon the very successful accomplishment of a by no means easy task; his book supplies a felt want."—*Public Opinion*.

"Mr. Fulton has compiled a Manual of Constitutional History to aid beginners in their studies; the extracts he has given from his authorities appear to be well chosen."—*Daily News*.

## Trower's Church Building Laws, 1874.

Post 8vo., 9s. cloth.

THE LAW of the BUILDING of CHURCHES, PARSONAGES, and SCHOOLS, and of the Division of Parishes and Places. By CHARLES FRANCIS TROWER, M.A., of the Inner Temple, Esq., Barrister at Law, late Fellow of Exeter College, Oxford, and late Secretary of Presentations to Lord Chancellor Westbury.

"We may pronounce it a useful work. It contains a great mass of information of essential import, and those who, as parishioners, legal advisers, or clergymen, are concerned with glebes, endowments, district chapelries, parishes, ecclesiastical commissions, and such like matters, about which the public, and notably the clerical public, seem to know but little, but which it is needless to say are matters of much importance."—*Solicitors' Journal*.

"This book is just the one we could wish every clergyman to possess, for if it was in the hands of our readers they would be saved the trouble of asking us very many questions."—*Clerical Journal*.

"In a well-arranged volume this gentleman points out concisely and intelligibly how the difficulties which usually beset parties in such matters may be avoided."—*Oxford University Herald*.

"On all the topics germane to its title this volume will be found a handy book of ecclesiastical law, and should on that account be made widely known among the clergy."—*Church Mail*.

"It is a compact and handy treatise, very clearly written, well arranged, easy of reference, and, besides a good table of contents, it has an elaborate index. It is a book we are glad to have and to recommend."—*Literary Churchman*.

## Latham's Law of Window Lights.

Post 8vo., 10s. cloth.

A TREATISE on the LAW of WINDOW LIGHTS. By FRANCIS LAW LATHAM, of the Inner Temple, Esq., Barrister at Law.

"This is not merely a valuable addition to the law library of the practitioner, it is a book that every law student will read with profit. It exhausts the subject of which it treats."—*Law Times*.

"His arrangement is logical, and he discusses fully each point of his subject. The work, in our opinion, is both perspicuous and able, and we cannot but compliment the author on it."—*Law Journal*.

## Lushington's Naval Prize Law.

Royal 8vo., 10s. Gd. cloth.

A MANUAL of NAVAL PRIZE LAW. By GODFREY LUSHINGTON, of the Inner Temple, Esq., Barrister at Law.

## Saunders' Law of Negligence.

1 vol., post 8vo., 9s. cloth.

A TREATISE on the LAW applicable to NEGLIGENCE. By THOMAS W. SAUNDERS, Esq., Barrister at Law, Recorder of Bath.

"The book is admirable; while small in bulk, it contains everything that is necessary, and its arrangement is such that one can readily refer to it. Amongst those who have done good service, Mr. Saunders will find a place."—*Law Magazine*.

"In the useful little volume now before us he has gathered the whole law of negligence. All his works are distinguished by painstaking and accuracy. This one is no exception; and the subject, which is of very extensive interest, will insure for it a cordial welcome from the profession."—*Law Times*.

"The references to the cases are given much more fully, and on a more rational system than is common with text book writers. He has a good index; he has produced a work which will facilitate reference to the authorities."—*Solicitors' Journal*.

"As a work of reference the book will be very welcome in the office of the solicitor or in the chambers of the barrister."—*Morning Advertiser*.

"A short and clear treatise like the present on the law relating to the subject ought to be welcomed. It is a moderate size volume, and makes references to all the authorities on the question easy."—*Standard*.

"It is a great advantage to the legal profession to find all the law of negligence collected and arranged in a manual of reasonable size. Such is Mr. Saunders' book."—*Public Opinion*.

"A serviceable and reasonable treatise on the law of negligence, by Thomas W. Saunders, Esq., Recorder of Bath."—*Telegraph*.

"A careful treatise on a branch of law which is daily acquiring importance. The manual before us is a useful treatise."—*Echo*.

## Ingram's Law of Compensation.—2nd Edit. by Elmes.

Post 8vo., 12s. cloth.

COMPENSATION to LAND and HOUSE OWNERS: being a Treatise on the Law of the Compensation for Interests in Lands, &c. payable by Railway and other Public Companies; with an Appendix of Forms and Statutes. By THOMAS DUNBAR INGRAM, of Lincoln's Inn, Esq., Barrister at Law. Second Edition. By J. J. ELMES, of the Inner Temple, Esq., Barrister at Law.

"We say at once that it is a work of great merit. It is a concise, clear and complete exposition of the law of compensation applicable to the owners of real property and railway and other companies."—*Law Magazine*.

"Whether for companies taking land or holding it, Mr. Ingram's volume will be a welcome guide. With this in his hand the legal adviser of a company, or of an owner and occupier whose property is taken, and who demands compen-

sation for it, cannot fail to perform his duty rightly."—*Law Times*.

"This work appears to be carefully prepared as regards its matter. This edition is a third larger than the first; it contains twice as many cases, and an enlarged index. It was much called for, and doubtless will be found very useful to the practitioner."—*Law Magazine*, second notice.

## Cutler's Law of Naturalization.

12mo., 3s. 6d. cloth.

THE LAW of NATURALIZATION; as Amended by the Acts of 1870. By JOHN CUTLER, B.A., of Lincoln's Inn, Barrister at Law, Editor of "Powell's Law of Evidence," &c.

"The author's position as Professor of English Law and Jurisprudence is a guarantee of his legal competence, whilst his literary abilities have enabled him to clothe his legal knowledge in language which laymen can understand without being misled by it."—*John Bull*.

"Mr. Cutler, in the work before us, lucidly explains the state of the law previous to the recent statute, and shows the alterations produced by it, so that a careful perusal of this book will enable the reader fully to comprehend the present state of the law upon this most important subject."—*Justice of the Peace*.

"This little work will be found of use to our countrymen resident abroad, as well as to

foreigners resident in this country."—*Public Opinion*.

"The book is a model of what a treatise of its kind should be."—*Sunday Times*.

"A very convenient hand book to the law of naturalization, as amended by the Acts of 1870."—*Weekly Times*.

"To anyone not having much previous acquaintance with the subject, who wishes for a general sketch of the law affecting aliens, as it was, and as it is now, this book will be useful."—*Solicitors' Journal*.

"It has been carefully compiled, and the authorities referred to are accurately cited."—*Pall Mall Gazette*.

## Hunt on Frauds and Bills of Sale.

Post 8vo., 9s. cloth.

The LAW relating to FRAUDULENT CONVEYANCES, under the Statutes of Elizabeth and the Bankrupt Acts: with Remarks on the Law relating to Bills of Sale. By ARTHUR JOSEPH HUNT, of the Inner Temple, Esq., Barrister at Law, Author of "The Law relating to Boundaries, Fences and Foreshores."

"This work is calculated to be of service to the profession. Mr. Hunt has brought to bear upon the subject a clearness of statement, an orderliness of arrangement and a subtlety of logical acuteness which carry him far towards a complete systematization of all the cases. Neither has his industry been lacking: the cases that have arisen under the Bankruptcy Act, 1869, and under the Bills of Sale Act have been carefully and completely noted up and disposed of by him in their appropriate places. The index also is both accurate and careful and secures much facility of reference to the various matters which are the subjects of the work."—*Law Magazine*.

"Though smaller in size, Mr. Hunt's book deals with fraudulent conveyances under the Bankruptcy Acts, a subject which Mr. May in his work left almost untouched, although his book has the undoubted merit of being the first to break fresh ground in treating fraudulent conveyances in a separate volume. In

reviewing that book last year we took occasion, while praising the industry and care with which it was compiled, to remark on the obscurity of its style. In this respect its younger rival has considerable advantage. Mr. Hunt's book is as readable as a treatise on so technical a subject can well be made. Mr. Hunt's arrangement of his materials follows an orderly and intelligible plan. The index is apparently carefully prepared, and the table of cases shews that none of the recent cases have been overlooked. Mr. Hunt has produced a really useful book unencumbered by useless matter, which deserves great success as a manual of the law of fraudulent dispositions of property."

—*Law Journal*.

"The author has collected with industry and care the authorities bearing on the question he has undertaken to deal with. The matter is conveniently broken up, and the reader is assisted by a good index."—*Solicitors' Journal*.

## Fry's Specific Performance of Contracts.

8vo., 16s. cloth.

A TREATISE on the SPECIFIC PERFORMANCE of CONTRACTS, including those of Public Companies, with a Preliminary Chapter on the Provisions of the Chancery Amendment Act, 1858. By EDWARD FRY, B.A., of Lincoln's Inn, Esq., one of Her Majesty's Counsel (now the Hon. Sir Edward Fry, one of the Judges of Her Majesty's Supreme Court of Judicature).

"The practitioner who uses it as a text book will find in it an adviser who will tell him not only what the law is, but how it may be enforced."—*Law Times*.

"Mr. Fry's work presents in a reasonable compass a large quantity of modern learning on the subject of contracts, with reference to the common remedy by specific performance, and will

thus be acceptable to the profession generally."—*Law Chronicle*.

"Mr. Fry's elaborate essay appears to exhaust the subject, on which he has cited and brought to bear, with great diligence, some 1,500 cases, which include those of the latest reports."—*Law Magazine and Review*.

## Wright's Law of Conspiracy.

8vo., 4s. cloth.

THE LAW of CRIMINAL CONSPIRACIES and AGREEMENTS. By R. S. WRIGHT, of the Inner Temple, Barrister at Law, Fellow of Oriel Coll., Oxford.

## Michael and Will's Law of Gas and Water Supply.

Post 8vo., 18s. cloth.

THE LAW of GAS and WATER SUPPLY; comprising the Rights and Duties as well of Local Authorities as of Private Companies in regard thereto, and including the Legislation of the last Session of Parliament. By W. H. MICHAEL and J. SHREWS WILK, Esqrs., Barristers at Law.

**Glen's Law of Public Health.—Ninth Edition.**

In the Press, 8vo., cloth.

THE LAW relating to PUBLIC HEALTH and LOCAL GOVERNMENT, and Urban and Rural Sanitary Authorities, including the Law relating to the Removal of Nuisances injurious to Health and the Prevention of Disease; with Statutes and Cases. By W. CUNNINGHAM GLEN and ALEXANDER GLEN, B.A., LL.B., Barristers at Law. Ninth Edition.

"The Public Health Act, 1875, rendered the production of a new edition of this standard work imperative, and it forms an important feature, it being given *in extenso*, with appropriate notes and decisions of the Courts upon the relative sections of the repealed Acts inserted at the ends of the sections. The remainder of the work comprises Acts expressly referred to by the Public Health Act as giving powers to local authorities, and other Acts of

analogous character, including the recent Act for the Improvement of Artizans' and Labourers' Dwellings. The notes to the sections show that great care and industry have been bestowed upon them, all the recent cases being annotated. Messrs. Glen have made this edition thoroughly worthy of the reputation long since acquired by the senior editor."

—From the Law Times, March 18th, 1876.

**Glen's Local Board Election Manual.**

Post 8vo., 3s. 6d. cloth.

THE CONSTITUTION OF LOCAL GOVERNMENT DISTRICTS and ELECTION OF LOCAL BOARDS under the Public Health Act, 1875, 38 & 39 Viet. c. 55. By ALEXANDER GLEN, M.A., LL.B., Cantab., of the Middle Temple, Barrister at Law.

**Holland on the Form of the Law.**

8vo., 7s. 6d. cloth.

ESSAYS upon the FORM of the LAW. By THOMAS ESKINE HOLLAND, M.A., Fellow of Exeter College, and Chichele Professor of International Law in the University of Oxford, and of Lincoln's Inn, Barrister at Law.

**Heales's History and Law of Pews.**

2 vols. 8vo., 16s. cloth.

The HISTORY and LAW of CHURCH SEATS or PEWS. By ALFRED HEALES, F.S.A., Proctor in Doctors' Commons.

"Great pains have evidently been taken in the compilation of this work, which exhibits throughout an immense amount of research and a careful arrangement of cases and extracts."—*Law Magazine*.

"For original research and faithful labour in verifying references no other writer can lay any claim to come anywhere near Mr. Heales."—*Solicitors' Journal*.

**Gaches' Town Councillors and Burgesses Manual.**

Post 8vo., 7s. cloth.

THE TOWN COUNCILLORS and BURGESSES MANUAL, a Popular Digest of Municipal and Sanitary Law, with information as to Charters of Incorporation, and a Collection of useful Forms especially adapted for newly Incorporated Boroughs. By LOUIS GACHES, LL.M., B.A., of the Inner Temple, Esq., Barrister at Law.

**Brandon's Law of Foreign Attachment.**

8vo., 14s. cloth.

A TREATISE upon the CUSTOMARY LAW of FOREIGN ATTACHMENT, and the PRACTICE of the MAYOR'S COURT of the CITY OF LONDON therein. With Forms of Procedure. By WOODTHORPE BRANDON, Esq., of the Middle Temple, Barrister at Law.

## Smith's Practice of Conveyancing.

Post Svo., 6s. cloth.

AN ELEMENTARY VIEW of the PRACTICE of CONVEYANCING in SOLICITORS' OFFICES; with an Outline of the Proceedings under the Transfer of Land and Declaration of Title Acts, 1862. for the use of Articled Clerks. By EDMUND SMITH, B.A., late of Pembroke College, Cambridge. Attorney and Solicitor.

## Tomkins' Institutes of Roman Law.

Part I. royal Svo. (to be completed in Three Parts) 12s. cloth.

THE INSTITUTES OF THE ROMAN LAW. PART I. The Sources of the Roman Law and its external History to the decline of the Eastern and Western Empires. By FREDERICK J. TOMKINS, M.A., D.C.L., Barrister at Law, of Lincoln's Inn.

## Gaius's Roman Law, by Tomkins and Lemon.

Complete in 1 vol. Svo., 27s. cloth extra.

THE COMMENTARIES OF GAIUS ON THE ROMAN LAW: with an English Translation and Annotations. By FREDERICK J. TOMKINS, Esq., M.A., D.C.L., and WILLIAM GEORGE LEMON, Esq., LL.B., Barristers at Law, of Lincoln's Inn.

## Williams's Common Law Pleading and Practice.

Svo., 12s. cloth.

AN INTRODUCTION to PRACTICE and PLEADING in the SUPERIOR COURTS of LAW, embracing an outline of the whole proceedings in an Action at Law, on Motion, and at Judges' Chambers; together with the Rules of Pleading and Practice, and Forms of all the principal Proceedings. By WATKIN WILLIAMS, Esq., M.P., of the Inner Temple, Barrister at Law.

## Smith's Bar Education.

Svo., 9s. cloth.

A HISTORY of EDUCATION for the ENGLISH BAR, with SUGGESTIONS as to SUBJECTS and METHODS of STUDY. By PHILIP ANSTIE SMITH, Esq., M.A., LL.B., Barrister at Law.

## Browning's Divorce and Matrimonial Causes Practice.

Post Svo., 8s. cloth.

THE PRACTICE and PROCEDURE of the COURT for DIVORCE and MATRIMONIAL CAUSES, including the Acts, Rules, Orders, copious Notes of Cases and Forms of Practical Proceedings, with Tables of Fees and Bills of Costs. By W. ERNST BROWNING, Esq., Barrister at Law.

**Redman's Law of Arbitrations and Awards.**

Svo., 12s. cloth.

**A CONCISE TREATISE on the LAW of ARBITRATIONS and AWARDS**, with an Appendix of Precedents and Statutes. By JOSEPH HAWORTH REDMAN, of the Middle Temple, Esq., Barrister at Law.

"Mr. Redman goes straight through his task, and gives his cases at the end of his propositions. The chief merit of the work is the singular lucidity with which the law is expounded. We give the work all the praise which it can claim when we say that the arrangement is good, the style clear, and the work exhaustive. There is a useful appendix of precedents and statutes, and a very good index."—*Law Times*.

"This is likely to prove a useful book in practice. All the ordinary law on the subject is given shortly and in a convenient and accessible form, and the index is a good one. The book is of a portable size and moderate price, and contains a fairly complete appendix of pre-

cedents. It is likely enough that it will meet a demand both in the profession and amongst lay arbitrators."—*Solicitors' Journal*.

"It is a concise statement of the law on the questions which are likely to arise in the course of a reference or in subsequent proceedings which may be taken in regard to it. The precedents of awards are clearly and concisely drawn. The arrangement of chapters is conveniently managed. The law is clearly stated, and, so far as we can judge, all the important cases bearing directly on the subject are given, while the index appears reasonably copious. These facts, combined with the smallness of the volume, ought to make the book a success."—*Law Journal*.

**Powell's Law of Inland Carriers.—Second Edition.**

Svo., 14s. cloth.

**THE LAW OF INLAND CARRIERS**, especially as regulated by the Railway and Canal Traffic Act, 1854. By EDMUND POWELL, Esq., of Lincoln College, Oxon, M.A., and of the Western Circuit, Barrister at Law, Author of "Principles and Practice of the Law of Evidence." Second Edition, almost re-written.

"Mr. Powell's writing is singularly precise and condensed, without being at all dry, as those who have read his admirable Book of Evidence will attest. It will be seen, from our outline of the contents, how exhaustively the subject has been treated, and that it is entitled to be, that which

it aspires to become, the text book on the Law of Carriers."—*Law Times*.

"The two chapters on the Railway and Canal Traffic Act, 1856, are quite new, and the recent cases under the provisions of that statute are analyzed in lucid language."—*Law Magazine*.

**Davis's Criminal Law Consolidation Acts.**

12mo., 10s. cloth.

**THE NEW CRIMINAL LAW CONSOLIDATION ACTS**, 1861; with an Introduction and practical Notes, illustrated by a copious reference to Cases decided by the Court of Criminal Appeal. Together with alphabetical Tables of Offences, as well those punishable upon Summary Conviction as upon Indictment, and including the Offences under the New Bankruptcy Act, so arranged as to present at one view the particular Offence, the Old or New Statute upon which it is founded, and the Limits of Punishment; and a full Index. By JAMES EDWD. DAVIS, Esq., Barrister at Law.

**Bulley and Bund's Bankruptcy Manual.**

12mo., 16s. cloth.

**A MANUAL of the LAW and PRACTICE of BANKRUPTCY** as Amended and Consolidated by the Statutes of 1869: with an APPENDIX containing the Statutes, Orders and Forms. By JOHN F. BULLEY, B.A., of the Inner Temple, Esq., Barrister at Law, and J. W. WILLIS-BUND, M.A., LL.B., of Lincoln's Inn, Esq., Barrister at Law. With Supplement, including the Orders to 30th April, 1870.

THE SUPPLEMENT may be had separately, 1s. sewed.

## Collier's Law of Contributories.

Post 8vo., 9s. cloth.

**A TREATISE ON THE LAW OF CONTRIBUTORIES** in the Winding-up of Joint Stock Companies. By ROBERT COLLIER, of the Inner Temple, Esq., Barrister at Law.

"It is impossible after a perusal of the book to doubt that the author has honestly studied the subject, and has not contented himself with the practice of piecing together head notes from reports."—*Solicitors' Journal*.

"Without making any quotations for the purpose of illustrating the above remarks, we think we are justified in commending this treatise to the favourable consideration of the

profession."—*Law Journal*.

"There is probably no branch of the law of contracts more difficult and intricate than this of contribution, and the cases quoted by Mr. Collier are treated with great discrimination, so that the book enables a man who has not made the subject a matter of special study to advise with comparatively small trouble to himself."—*Irish Law Times*.

## Dowell's Income Tax Laws.

8vo., 12s. 6d. cloth.

**THE INCOME TAX LAWS** at present in force in the United Kingdom, with Practical Notes, Appendices and a copious Index. By STEPHEN DOWELL, M.A., of Lincoln's Inn, Assistant Solicitor of Inland Revenue.

"Only men thoroughly conversant with the subject could have prepared it, and despite Mr. Dowell's knowledge it must have been a heavy labour. To commissioners and all concerned in the working of the Income Tax Mr. Dowell's book will be of great value."—*Law Journal*.

"We cannot doubt that the work will prove of much service to persons engaged in the administration of the Income Tax laws, and to the practitioner on the points which frequently

arise in reference to those laws."—*Solicitors' Journal*.

"We can honestly commend Mr. Dowell's work to our readers as being well done in every respect. They will find it a neatly written and complete history and explanation of the Stamp duties; and they will also find the Act of 1870 set out completely and clearly set before them in a good bold type, easy of reference and supported in its utility by a good index."—*Law Magazine*.

## Dowell's Stamp Duties and Stamp Laws.

8vo., 12s. 6d. cloth.

**A HISTORY and EXPLANATION** of the STAMP DUTIES, from their commencement to the present time, the past and the present State of the Stamp Laws, the System and the Administration of the Tax, Observations on the Stamp Duties in Foreign Countries; *the Stamp Laws at present in force in the United Kingdom*; with Notes, Appendices and a copious Index. By STEPHEN DOWELL, M.A., of Lincoln's Inn, Assistant Solicitor of Inland Revenue.

"This is a work of some power. The author is evidently master of his subject. The style of the composition is singularly felicitous and makes

the subject—a rather thorny one—clear and intelligible."—*Law Times*.

## Wigram on Extrinsic Evidence as to Wills.

Fourth Edition. 8vo., 11s. cloth.

**AN EXAMINATION OF THE RULES OF LAW** respecting the Admission of EXTRINSIC EVIDENCE in Aid of the INTERPRETATION OF WILLS. By the Right Hon. Sir JAMES WIGRAM, Knt. The Fourth Edition, prepared for the press with the sanction of the learned Author, by W. KNOX WIGRAM, M.A., of Lincoln's Inn, Esq., Barrister-at-Law.

"In the celebrated treatise of Sir James Wigram, the rules of law are stated, discussed and explained in a manner which has excited the

admiration of every judge who has had to consult it."—*Lord Kingsdown, in a Privy Council Judgment, July 8th, 1858*.

**Clifford and Stephens's Practice of Referees Court, 1873.**

2 Vols., royal 8vo., 3l. 10s. cloth.

THE PRACTICE of the COURT of REFEREES on PRIVATE BILLS in PARLIAMENT, with Reports of Cases as to the *locus standi* of Petitioners during the Sessions 1867-68-69-70-71 and 72. By FREDERICK CLIFFORD and PEMBROKE S. STEPHENS, Barristers-at-Law.

Just published, royal 8vo., Vol. I. Part I., price 3l. 6d.; and Vol. I. Part II., 15s. sewed.

In continuation of the above.

CASES DECIDED DURING THE SESSIONS 1873, 1874, 1875, and 1876 by the COURT of REFEREES on PRIVATE BILLS in PARLIAMENT. By FREDERICK CLIFFORD and A. G. RICKARDS, Esqs., Barristers at Law.

"The Reports are well indexed, and bring down the decided cases to the end of 1875. As to the mode in which Messrs. Clifford and Rickards have executed the work, it will be sufficient to say that these Reports are a continuance of the series of 'Clifford and Stephens's Reports,' which began in 1867, and seem to be marked by the same care and accuracy which have made these Reports a standard for reference and quotation by practitioners and the

Court itself."—*Times*, March 10, 1876.

"This is a volume of reports which, we think, will prove of very great use to any one practising or interested in cases before the referees. On the whole it is well done. Notwithstanding the slight defects mentioned, the book is really a very useful one, and will doubtless commend itself to Parliamentary practitioners."—*Law Times*.

**Cutler and Griffin's Indian Criminal Law.**

8vo., 6s. cloth.

AN ANALYSIS of the INDIAN PENAL CODE (including the Indian Penal Code Amendment Act, 1870), with Notes. By JOHN CUTLER, B.A., of Lincoln's Inn, Barrister at Law, Professor of English Law and Jurisprudence, and Professor of Indian Jurisprudence at King's College, London, and EDMUND FULLER GRIFFIN, B.A., of Lincoln's Inn, Barrister at Law.

"It may be added that the code is just at present out of print, so that the production of an analysis at the present moment is especially opportune. Messrs. Cutler and Griffin have produced a useful little book, and produced it at a time when it will be especially useful."—*Solicitors' Journal*.

"This analysis of the Indian Penal Code seems to have conferred a great boon on the Indian practitioner, and will doubtless be of

use to professional men in England. It has a good index."—*Law Magazine*.

"This is a work intended for students and for practitioners in India. Knowing how well the same authors edited the Indian portion of Powell on Evidence, we should be content to take it on the faith of their reputation only. The mode of analysis is very clear and brings well forward the prominent features of the code."—*Law Times*.

**Field's Regulations of the Bengal Code.**

1 vol., royal 8vo., 42s. cloth.

THE REGULATIONS OF THE BENGAL CODE, Edited, with Chronological Tables of Repeal and Amendment, and an Introduction. By C. D. FIELD, of the Inner Temple, Barrister at Law, and of H.M.'s Bengal Civil Service.

**Field's Table of, and Index to, Indian Statute Law.**

Demy 4to., 42s. cloth.

A CHRONOLOGICAL TABLE of and INDEX to the INDIAN STATUTE-BOOK from the Year 1834, with a General Introduction to the Statute Law of India; with a SUPPLEMENT bringing the work down to August, 1872. By C. D. FIELD, M.A., LL.D., of the Inner Temple, Barrister at Law, and of H.M.'s Bengal Civil Service.

# THE LAW EXAMINATION JOURNAL.

Edited by HERBERT NEWMAN MOZLEY, M.A.,

Fellow of King's College, Cambridge; and of Lincoln's Inn, Esq., Barrister-at-Law.

*Published in Hilary, Easter, Trinity and Michaelmas Sittings in each year. Price 1s., by post 1s. 1d. annual subscription, payable in advance, 4s., by post, 4s. 3d. All the back Numbers may be had.*

No. 31, Easter 1877.—I. The Statutes of 1876 (Third Notice). II. Digest of Cases. III. Intermediate Examination, January, 1877: Questions and Answers. IV. Final Examination, April, 1877: Questions and Answers. V. Review. VI. Correspondence and Notices.

No. 30, Hilary, 1877.—I. Statutes of 1876 (Second Notice). II. Rules of the Supreme Court, December, 1876. III. Digest of Cases. IV. Intermediate Examination, November, 1876: Questions and Answers. V. Final Examination, January, 1877: Questions and Answers. VI. Reviews. VII. Correspondence and Notices.

No. 29, Michaelmas, 1876.—I. Statutes of 1876 (First Notice). II. Rules of the Supreme Court, June, 1876. III. Intermediate Examination, June, 1876: Questions and Answers. IV. Final Examination, November, 1876: Questions and Answers. V. Notices of the Intermediate Examinations for 1877. VI. Correspondence and Notices.

No. 28, Trinity, 1876.—I. The Rules of February, 1876. II. The Statutes of 1875 (concluded). III. Digest of Cases. IV. Intermediate Examination, April, 1876: Questions and Answers. V. Final Examination, June, 1876: Questions and Answers. VI. Reviews of Books. VII. Correspondence and Notices.

No. 27, Easter, 1876.—I. Notices for the June and November Examinations, 1876. II. Further Extracts from the Rules of November 2, 1875. III. Statutes of 1875 (Third Notice). IV. Digest of Cases. V. Intermediate Examination, 1876: Questions and Answers. VI. Final Examination, April, 1876: Questions and Answers. VII. The New Law Dictionary. VIII. Reviews of Books. IX. Correspondence and Notices.

No. 26, Hilary, 1876.—I. The New Rules relating to Examinations. II. The Statutes of 1875 (Second Notice). III. Digest of Cases. IV. Intermediate Examination, Michaelmas Sittings, 1875: Questions and Answers. V. Final Examination, Hilary Sittings, 1876: Questions and Answers. VI. Reviews. VII. Correspondence and Notices.

No. 25, Michaelmas, 1875.—I. Statute of Fraudulent Conveyances, 13 Eliz. c. 5. II. Statutes of 1875 (First Notice). III. Digest of Cases. IV. Intermediate Examination, Trinity Term, 1875: Questions and Answers. V. Final Examination, Michaelmas Term, 1875: Questions and Answers. VI. Reviews of Books. VII. Correspondence and Notices.

No. 24, Trinity, 1875.—I. The Statute of Uses, continued. II. Digest of Cases. III. Intermediate Examination, Easter Term, 1875: Questions and Answers. IV. Final Examination, Trinity Term, 1875: Questions and Answers. V. A New Law Dictionary. VI. Correspondence and Notices.

No. 23, Easter, 1875.—I. The Statute of Uses. II. The Statutes of 1874 (Third Notice). III. Digest of Cases. IV. Intermediate Examination, Hilary Term, 1875: Questions and Answers. V. Final Examination, Easter Term, 1875: Questions and Answers. VI. Correspondence and Notices.

No. 22, Hilary, 1875.—I. The Statute of Frauds in relation to Contracts of Sale: *Sale v. Lambert and Potter v. Duffield*. II. The Statutes of 1874 (Second Notice). III. Digest of Cases. IV. Intermediate Examination, Michaelmas Term, 1874: Questions and Answers. V. Final Examination, Hilary Term, 1875: Questions and Answers. VI. Notice of Intermediate Examinations for 1875. VII. Correspondence and Notices.

No. 21, Michaelmas, 1874.—I. The Statutes of 1874 (First Notice). II. Digest of Cases. III. Intermediate Examination Questions and Answers (T. T. 1874). IV. Final Examination Questions and Answers (M. T. 1874). V. Reviews of Books. VI. Correspondence and Notices.

No. 20, Trinity, 1874.—I. Legislative Prospects of the Session. II. Digest of Cases. III. Intermediate Examination, Easter Term, 1874: Questions and Answers. IV. Final Examination, Trinity Term, 1874: Questions and Answers. V. Reviews. VI. Correspondence and Notices.

No. 19, Easter, 1874.—I. Leading Cases (continued). II. Digest of Cases. III. Intermediate Examination, H. T. 1874: Questions and Answers. IV. Final Examination, E. T. 1874: Questions and Answers. V. Review. 7th Edit. of Stephen's Blackstone's Commentaries. VI. Correspondence.

No. 18, Hilary, 1874.—I. Statutes of 1873 (Second Notice, including the Supreme Court of Judicature Act and subsequent Statutes). II. Digest of Cases. III. Intermediate Examination, Michaelmas Term, 1873: Questions and Answers. IV. Final Examination, Hilary Term, 1874: Questions and Answers. V. Correspondence and Notices.

No. 17, Michaelmas, 1873.—I. Leading Cases (Note by the Editor). II. Statutes of 1873 (First Notice). III. Digest of Cases. IV. Intermediate Examination, T. T. 1873: Questions and Answers. V. Final Examination, M. T. 1873: Questions and Answers. VI. Notice of Intermediate Examination for 1874. VII. Reviews of Books. VIII. Law Student's Societies. IX. Correspondence.

No. 16, Trinity, 1873.—I. The Study of the Law, concluded. II. Leading Cases—*Spencer's Case*, continued. III. Digest of Cases. IV. Intermediate Examination, Easter, 1873: Questions and Answers. V. Final Examination, Trinity, 1873: Questions and Answers. VI. A Review—*Kelly's Draftsman*. VII. Correspondence and Notices.

*Copies of Vol. I. of the LAW EXAMINATION JOURNAL, containing Nos. 1 to 11, with full Indexes and Tables of Cases cited, may now be had, price 16s. bound in cloth.*

\* \* \* *An Index to Vol. 2 of the Law Examination Journal, containing Nos. 15 to 28, is now issued, and may be had separately, price 6d. sewed. Copies of Vol. 2 of the Law Examination Journal may also be had, price 15s. cloth.*

*On January 1, 1877, was published, demy 8vo., price 6s., to be continued Annually.*

## THE FIRST ANNUAL ISSUE OF THE INNS OF COURT KALENDAR.

Dedicated by permission to the Lord High Chancellor of Great Britain.

By CHARLES SHAW, Under-Treasurer of the Middle Temple.

Containing a Record of the Members of the English Bar, their Inns of Court, Dates of Admission and Call, together with their Academical Degrees, Appointments, Circuits, &c.; Students, their Inns of Court and Dates of Admission, Fees, Modes of Admission, Keeping Terms, Preliminary Examination, Lectures, General Examination, Consolidated Regulations of the Four Inns of Court, &c.; Honours, Studentships and Exhibitions; Lists of the Judges and Officers of the Supreme Court of Judicature, &c. &c.

## BAR EXAMINATION JOURNAL.

Edited by A. D. TYSEN, B.C.L., M.A., SIR R. K. WILSON, BART., M.A., and  
W. D. EDWARDS, LL.B., Barristers at Law.

*Published in Numbers, 8vo., at 3s. each, by post 3s. 1d., after each Bar Examination.*

Nos. 3, 4, 6, 7, 8, 9, 10, 11, 12, 13 and 14, from TRINITY TERM, 1872,  
to HILARY TERM, 1877.

*(No. 13 is a Double Number, price 6s.; by post, 6s. 2d. Nos. 1 and 5 are out of print.)*

Subjects of Bar Examination. Examination Papers, with the Answers.

ENGLISH LAW:—Constitutional Law and Legal History; Equity; Common Law; Real Property; Jurisprudence, &c.; General Paper.

INDIAN LAW:—Hindu Law; Mahomedan Law; Penal Code; Criminal Procedure Code; Civil Procedure Code; Succession Act; General Paper.

"Messrs. A. D. Tyssen and W. D. Edwards, Barristers at Law, have edited No. 12, Hilary Term, 1876, of the 'Bar Examination Journal,' published by Messrs. Butterworth. The number contains articles of a useful character on 'Reading for the Bar Examination;' 'Formation of a Law Library;' 'Reporting;' and

also the Questions and Answers in the Bar Examinations of Hilary Term, with lists of successful candidates, and other information of interest to students for the bar. The article on 'Law Reporting' exhibits a mastery of the subject and deserves careful study."—*Law Journal*, March 11th, 1876.

Pearce's History of the Inns of Court and Chancery; with Notices of their Ancient Discipline, Rules, Orders and Customs, Readings, Moots, Masques, Revels and Entertainments, including an account of the Eminent Men of the Four Learned and Honourable Societies—Lincoln's Inn, the Inner Temple, the Middle Temple, and Gray's Inn, &c. By ROBERT R. PEARCE, Esq., Barrister at Law. 8vo. 8s. cloth.

## The Preliminary Examination Journal AND STUDENT'S LITERARY MAGAZINE.

EDITED BY JAMES ERLE BENHAM,

Formerly of King's College, London; Author of "The Student's Examination Guide," &c.

*Now complete in Eighteen Numbers, containing all the Questions and Answers from 1871 to 1875, and to be had in One Vol. 8vo., price 18s. cloth.*

Nos. I. to XVIII. of the Preliminary Examination Journal may  
also still be had at 1s. each, by post 1s. 1d.

**An Action at Law: being an Outline of the Jurisdiction of the Superior Courts of Common Law, with an Elementary View of the Proceedings in Actions therein.** By ROBERT MALCOLM KERR, Barrister at Law; now Judge of the Sheriff's Court of the City of London. Third Edition. 12mo., 9s. cloth.

**A Handy Book for the Common Law Judges' Chambers.** By GEO. H. PARKINSON, Chamber Clerk to the Hon. Mr. Justice Byles. 12mo., 7s. cloth.

**A Concise Treatise on the Principles of Equity Pleading; with Precedents.** By C. STEWART DREWRY, of the Inner Temple, Esq., Barrister at Law. 12mo., 6s., cloth.

**Drainage of Land: How to procure Outfalls by New Drains, or the Improvement of Existing Drains, in the Lands of an adjoining Owner, under the Powers contained in Part III. of the Act 24 & 25 Vict. c. 133; with an Explanation of the Provisions, and Suggestions for the Guidance of Land Owners, Occupiers, Land Agents and Surveyors.** By J. WILLIAM WILSON, Solicitor. 8vo. 1s. sewed.

**Supreme Appellate Jurisdiction. A Speech delivered in the House of Lords on the 11th June, 1874.** By the Right Hon. Lord O'HAGAN. 8vo. 1s. sewed.

**The Law and Facts of the Alabama Case, with Reference to the Geneva Arbitration.** By JAMES O'DOWD, Esq., Barrister at Law. 8vo. 2s. sewed.

**Foreshores. Report of case The Queen at the prosecution of Williams v. Nicholson, for removing Shingle from the Foreshore at Withernsea.** Heard at the Police Court, Hull, 31st May, 1870. 8vo. 1s. sewed.

**A Letter to the Right Hon. the Lord High Chancellor concerning Digests and Codes.** By WILLIAM RICHARD FISHER, of Lincoln's Inn, Esq., Barrister at Law. Royal 8vo. 1s. sewed.

**Indian Civil Service Examinations. On reporting Cases for the Periodical Examinations by Selected Candidates for the Civil Service of India: Being a Lecture delivered on Wednesday, June 12, 1867, at King's College, London.** By JOHN CUTLER, B.A., of Lincoln's Inn, Barrister at Law, Professor of English Law and Jurisprudence and Professor of Indian Jurisprudence at King's College, London. 8vo., 1s. sewed.

**Hamel's International Law, in connexion with Municipal Statutes relating to the Commerce, Rights and Liabilities of the Subjects of Neutral States pending Foreign War; considered with reference to the Case of the Alexandra, seized under the provisions of the Foreign Enlistment Act.** By FELIX HARGRAVE HAMEL, Barrister at Law. Post 8vo. 3s. boards.

**Francillon's Lectures, Elementary and Familiar, on English Law. FIRST and SECOND SERIES.** By JAMES FRANCILLON, Esq., County Court Judge. 2 vols. 8vo. 8s. each cloth.

**The Laws of Barbados. (By Authority.)** Royal 8vo. 21s. cloth.

**Le Marchant's Report of Proceedings of the House of Lords on the Claims to the Barony of Gardner, with an Appendix of Cases illustrative of the Law of Legitimacy.** By Sir DENIS LE MARCHANT, of Lincoln's Inn, Barrister at Law. 8vo. 18s. boards.

**Norman's Treatise on the Law and Practice relating to Letters Patent for Inventions.** By J. P. NORMAN, M.A., Barrister at Law. Post 8vo., 7s. 6d. cloth.

**Gray's Treatise on the Law of Costs in Actions and other Proceedings in the Courts of Common Law at Westminster.** By JOHN GRAY, Esq., of the Middle Temple, Barrister at Law. 8vo., 21s. cloth.

**Elements of the Logical and Experimental Sciences considered in their relation to the Practice of the Law.** 8vo. 14s. boards.

**An Elementary View of the Proceedings in a Suit in Equity.** With an Appendix of Forms. By SYLVESTER J. HUNTER, B.A., of Lincoln's Inn, Barrister at Law. Sixth Edition. By G. W. LAWRENCE, M.A., of Lincoln's Inn, Barrister at Law. Post 8vo. 12s. cloth.

**The Inns of Court and Legal Education.** By C. T. SAUNDERS. 8vo. 1s. sewed.

**A Memoir of Lord Lyndhurst.** By William Sidney Gibson, Esq., M.A., F.S.A., Barrister at Law, of Lincoln's Inn. Second edition, enlarged. 8vo. 2s. 6d. cloth.

**A Memoir of Mr. Justice Talfourd.** By a Member of the Oxford Circuit. Reprinted from the Law Magazine. 8vo. 1s. sewed.

**Speech of Sir R. Palmer, Q.C., M.P., at the Annual Meeting of the Legal Education Association in the Middle Temple Hall, 1871; with a Report of the Proceedings.** 8vo. 1s. sewed.

**The Ancient Land Settlement of England.** A Lecture delivered at University College, London, October 17th, 1871. By J. W. WILLIS BUND, M.A., Professor of Constitutional Law and History. 8vo. 1s. sewed.

**Baker's Compendium of the Statutes, Cases and Decisions affecting the Office of Coroner.** By WILLIAM BAKER, Coroner of Middlesex. 12mo. 7s. cloth.

**Greening's Forms of Declarations, Pleadings and other Proceedings in the Superior Courts of Common Law, with the Common Law Procedure Act, and other Statutes; Table of Officers' Fees; and the New Rules of Practice and Pleading, with Notes.** By HENRY GREENING, Esq., Special Pleader. Second Edition. 12mo. 10s. 6d. boards.

**The Laws, Customs and Privileges, and their Administration in the Island of Jersey, with Notices of Guernsey.** By ABRAHAM J. LE CRAS. 12mo. 6s. cloth.

**Bowditch's Treatise on the History, Revenue Laws, and Government of the Isles of Jersey and Guernsey, to which is added the recent Acts as to Smuggling, Customs and Trade of the Isle of Man and the Channel Islands, Forms, Costs, &c.** By J. BOWDITCH, Solicitor. 8vo. 3s. 6d. sewed.

**Pulling's Practical Compendium of the Law and Usage of Mercantile Accounts:** describing the various Rules of Law affecting them, at Common Law, in Equity, Bankruptcy and Insolvency, or by Arbitration. Containing the Law of Joint Stock Companies' Accounts, and the Legal Regulations for their Adjustment under the Winding-up Acts of 1848 and 1849. By ALEXANDER PULLING, Esq. of the Inner Temple, Barrister at Law. 12mo. 9s. boards.

**Leigh's Abridgment of the Law of Nisi Prius.** By P. BRADY LEIGH, of the Inner Temple, Barrister at Law. 2 vols. 8vo. £2 : 8s. boards.

**Gurney's System of Short Hand.** By Thomas Gurney. First published in 1740, and subsequently improved. 17th Edition. 12mo. 3s. 6d. cloth.  
"Gurney's is, we believe, admitted to be the best of the many systems, and a seventeenth edition appears to attest that fact."—*Law Times*.

**Linklater's Digest of, and Index to, the New Bankruptcy Act, 1869, and the accompanying Acts.** By JOHN LINKLATER, Solicitor. Second Edition. Imperial 8vo., 3s. 6d. sewed.

**Moseley's Law of Contraband of War;** comprising all the American and English Authorities on the Subject. By JOSEPH MOSELEY, Esq., B.C.L., Barrister at Law. Post 8vo. 5s. cloth.

**Dr. Deane's Law of Blockade, as contained in the Judgments of Dr. Lushington and the Cases on Blockade decided during 1854.** By J. P. DEANE, D.C.L., Advocate in Doctors' Commons. 8vo. 10s. cloth.

**Lovesy's Law of Arbitration between Masters and Workmen**, as founded upon the Councils of Conciliation Act of 1867, the Masters and Workmen Act, and other Acts, with an Introduction and Notes. By C. W. LOVESY, Esq., Barrister at Law, now one of Her Majesty's Judges, British Guiana. 12mo., 4s. cloth.

**Chart of Inheritance according to the Bengal School of Hindu Law.** By C. D. FIELD, LL.D., Barrister at Law, Author of "The Law of Evidence in British India." On stiff card, 5s.

**A Practical Treatise on Life Assurance; in which the Statutes, &c., affecting unincorporated Joint Stock Companies are briefly considered and explained. SECOND EDITION.** By FREDERICK BLAYNEY, Esq., Author of "A Treatise on Life Annuities." 12mo. 7s. boards.

**Sewell's Treatise on the Law of Sheriff, with Practical Forms and Precedents.** By RICHARD CLARKE SEWELL, Esq., D.C.L., Barrister at Law. 8vo. 21s. boards.

**The Law relating to Transactions on the Stock Exchange.** By HENRY KEYSER, Esq., Barrister at Law. 12mo., 8s. cloth.

**Sewell's Municipal Corporation Acts, 5 & 6 Will. 4, c. 76, and 6 & 7 Will. 4, cc. 103, 104, 105, with Notes, and Index.** By R. C. SEWELL, Esq., Barrister at Law. 12mo. 9s. boards.

**A Legigraphical Chart of Landed Property in England from the time of the Saxons to the present Era.** By CHARLES FEARNE, Esq., Barrister at Law. On a large sheet, 6s. coloured.

**The Common Law of Kent; or the Customs of Gavelkind.** With an Appendix concerning Borough English. By T. ROBINSON, Esq. THIRD EDITION, with Notes and References to modern Authorities, by JOHN WILSON, Esq. Barrister at Law. 8vo. 18s. boards.

**The Marriage and Registration Acts, 6 & 7 Will. 4, caps. 85, 86; with Instructions, Forms, and Practical Directions.** The Acts of 1837, viz. 7 Will. 4, c. 1, and 1 Vict. c. 22, with Notes and Index. By J. S. BURN, Esq., *Secretary to the Commission.* 12mo. 6s. 6d. boards.

**A Treatise on the Law of Gaming, Horse-Racing, and Wagers.** By FREDERIC EDWARDS, Esq., Barrister at Law. 12mo. 5s. cloth.

**A Digest of Principles of English Law; arranged in the order of the Code Napoleon, with an Historical Introduction.** By GEORGE BLAXLAND, Esq. Royal 8vo. £1 : 4s. boards.

**A Treatise on the Law of Commerce and Manufactures, and the Contracts relating thereto; with an Appendix of Treaties, Statutes, and Precedents.** By JOSEPH CHITTY, Esq. Barrister at Law. 4 vols. royal 8vo. £6 : 6s. boards.

**Anstey's Pleader's Guide; a Didactic Poem, in Two Parts,** The Eighth Edition. 12mo. 7s. boards.

**Hardy's Catalogue of Lords Chancellors, Keepers of the Great Seal, and Principal Officers of the High Court of Chancery.** By THOMAS DUFFUS HARDY, Principal Keeper of Records. Royal 8vo. 20s. cloth. (Only 250 copies printed.)

**Pothier's Treatise on the Contract of Partnership; with the Civil Code and Code of Commerce relating to this Subject, in the same Order.** Translated from the French. By O. D. TUDOR, Esq., Barrister. 8vo., 5s. cloth.

**Browne's Practical Treatise on Actions at Law, embracing the subjects of Notice of Action; Limitation of Actions; necessary Parties to and proper Forms of Actions, the Consequence of Mistake therein; and the Law of Costs with reference to Damages.** By R. J. BROWNE, Esq., of Lincoln's Inn, Special Pleader. 8vo., 16s. boards.

## Ecclesiastical Law.

**The Case of the Rev. G. C. Gorham against the Bishop of Exeter,** as heard and determined by the Judicial Committee of the Privy Council on appeal from the Arches Court of Canterbury. By EDWARD F. MOORE, Esq., M.A., Barrister at Law; Author of Moore's Privy Council Reports. Royal 8vo. 8s. cloth.

**Archdeacon Hale's Essay on the Union between Church and State,** and the Establishment by Law of the Protestant Reformed Religion in England, Ireland, and Scotland. By W. H. HALE, M.A., Archdeacon of London. 8vo. 1s. sewed.

**The Judgment of the Privy Council on Appeal in the Case of Hebbert v. Purchas.** Edited by EDWARD BULLOCK, of the Inner Temple, Barrister at Law, Reporter in Privy Council for the Law Journal Reports. Royal 8vo., 2s. 6d. sewed.

**Burder v. Heath.** Judgment delivered on November 2, 1861, by the Right Honorable STEPHEN LUSHINGTON, D.C.L., Dean of the Arches. Folio, 1s. sewed.

**The Case of Long v. Bishop of Cape Town,** embracing the opinions of the Judges of Colonial Court hitherto unpublished, together with the decision of the Privy Council, and Preliminary Observations by the Editor. Royal 8vo., 6s. sewed.

**The Judgment of the Dean of the Arches, also the Judgment of the PRIVY COUNCIL,** in Liddell (clerk), and Horne and others against Westerton, and Liddell (clerk) and Park and Evans against Beal. Edited by A. F. BAYFORD, LL.D.: and with an elaborate analytical Index to the whole of the Judgments in these Cases. Royal 8vo., 3s. 6d. sewed.

**The Law of the Building of Churches, Parsonages and Schools,** and of the Division of Parishes and Places—continued to 1874. By CHARLES FRANCIS TROWER, M.A., Barrister at Law. Post 8vo. 9s. cloth.

**The History and Law of Church Seats or Pews.** By ALFRED HEALES, F.S.A., Proctor in Doctors' Commons. 2 vols. 8vo. 16s. cloth.

**Field's Law relating to Protestant Curates and the Residence of Incumbents or their Benefices in England and Ireland.** By C. D. FIELD, M.A., LL.D., Author of "The Law of Evidence in India," &c. Post 8vo. 6s. cl.

**Hamel's Law of Ritualism in the United Church of England and Ireland.** With Practical Suggestions for Amendment of the Law, and a Form of Bill for that purpose. By F. HARGAVE HAMEL, Esq., of the Inner Temple, Barrister at Law. Post 8vo. 1s. sewed.

**The Judgment delivered by the Right Hon. Sir Robert Phillimore, D.C.L., Official Principal of the Court of Arches, in the Cases of Martin v. Mackonochie and Flamank v. Simpson.** Edited by WALTER G. F. PHILLIMORE, B.A., of the Middle Temple, Fellow of All Souls College, and Vinerian Scholar, Oxford. Royal 8vo. 2s. 6d. sewed.

**Judgment delivered by the Right Hon. Lord Cairns on behalf of the Judicial Committee of the Privy Council in the case of Martin v. Mackonochie.** Edited by W. ERNST BROWNING, Barrister at Law. Royal 8vo. 1s. 6d. sewed.

**The Privilege of Religious Confessions in English Courts of Justice considered in a Letter to a Friend.** By EDWARD BADELEY, Esq., M.A., Barrister at Law. 8vo. 2s. sewed.

**The Practice of the Ecclesiastical Courts, with Forms and Tables of Costs.** By H. C. COOTE, F.S.A., Proctor in Doctors' Commons, &c. 8vo. 28s. boards.

**A Practical Treatise on the Law of Advowsons.** By J. MIREHOUSE, Esq., Barrister at Law. 8vo. 14s. boards.

**The Lord's Table: its true Rubrical Position.** The Purchas Judgment, not reliable. The Power of the Laity and Churchwardens to prevent Romanizing. Suggestions to the Laity and Parishes for the due ordering of the Table at Communion Time. The Rubrical Position of the Celebrant. By H. F. NAPPER, Solicitor. 8vo. 1s. sewed.

## New Works and New Editions in Preparation.

Glen's Law of Public Health and Local Government. The Ninth edition. In 1 vol. Svo.

Compulsory Sale of Real Estate under the Powers of the Partition Acts, 1868 and 1876. By PHILIP HENRY LAWRENCE, of Lincoln's Inn, Esq., Barrister at Law. In demy Svo.

Glen's Law of Highways. The Third edition. In Svo.

A Collection of Mortgage Precedents and Forms of Decrees. By W. R. FISHER, Esq., of Lincoln's Inn, Barrister at Law. In 1 vol. royal Svo.

Oke's Fishery Laws. Second edition. By J. W. WILLIS BUND, Esq., Barrister at Law. In post Svo.

The Inns of Court Kalendar: a Record of the Members of the English Bar, their Inns of Court, Dates of Admission and Call, together with their Academical Degrees, Appointments, Circuits, &c. &c.; Students, Mode of Admission, Keeping Terms, Preliminary Examination Lectures, General Examination, Consolidated Regulations of the Four Inns of Court, &c.; Honours, Studentships and Exhibitions, &c. By CHARLES SHAW, Esq., Under-Treasurer of the Middle Temple. Post Svo. price 6s. (Continued Annually.)

Dr. Tristram's Practice of the Probate Division of the High Court of Justice in Contentious Matters. The Seventh edition. In 1 vol. Svo.

Popular Monthly Law Tracts. Edited by JAMES BALL, author of the Popular Conveyancer, &c. In Svo. To be continued Monthly at 6d. (Subject of No. 1, "Copyright.")

Imprinted at London,  
*number Seuen in Flete strete within Temple barre,*  
whylom the signe of the Hande and starre,  
and the Hovse where liued Richard Tottel,  
printer by Special patentes of the bookes of the Common lawe  
in the seuerall Reigns of  
*King Edw. VI. and of the quenes Marye and Elizabeth.*



1553-1877.



## Mr. Oke's Magisterial Works.

**Oke's Magisterial Synopsis ; a Practical Guide for** Magistrates, their Clerks, Solicitors, and Constables; comprising Summary Convictions and Indictable Offences, with their Penalties, Punishments, Procedure, &c., *alphabetically and tabularly arranged*: with a Copious Index. *Twelfth Edition, much enlarged.* By THOMAS W. SAUNDERS, Esq., Barrister-at-Law, Recorder of Bath. In 2 vols. 8vo. 60s. cloth.

"The new edition now before us has been brought out under the superintendence of Mr. Saunders, the Recorder of Bath, whose name is so well known in legal literature. Mr. Saunders has for so many years made many of the subjects which fall within the scope of magisterial jurisdiction his special study, and we are not at all surprised that he should have been selected to carry on the work of Mr. Oke."—*Law Journal*.

**Oke's Magisterial Formulist ; being a Complete Collection of Forms and Precedents for practical use in all Cases out of Quarter Sessions, and in Parochial Matters, by Magistrates, their Clerks, Attornies and Constables.** By GEORGE C. OKE, Author of "The Magisterial Synopsis," &c. *Fifth Edition, enlarged and improved.* By THOMAS W. SAUNDERS, Esq., Barrister-at-Law, Recorder of Bath. 8vo. 30s. cloth.

"In selecting Mr. Saunders to follow in the steps of Mr. Oke the publishers exercised wise discretion, and we congratulate both author and publishers upon the complete and very excellent manner in which this edition has been prepared and is now presented to the profession."—*Law Times*.

**Oke's Laws as to Licensing Inns, &c. 1874 ; containing** the Licensing Acts of 1872 and 1874, and the other Acts in force as to Ale-houses, Beer-houses, Wine and Refreshment-houses, Shops, &c., where Intoxicating Liquors are sold, and Billiard and Occasional Licences. Systematically arranged, with Explanatory Notes, the authorized Forms of Licences, Tables of Offences, Index, &c. By GEORGE C. OKE, late Chief Clerk to the Lord Mayor of London. Second Edition, with all the Cases decided to the present time. By W. CUNNINGHAM GLEN, Esq., Barrister-at-Law. Post 8vo. 10s. cloth.

"The arrangement in chapters adopted by Mr. Oke seems to us better than the plan pursued by the authors of the rival work."—*Solicitors' Journal*.

"Mr. Oke has brought out by far the best edition of the act."—*Law Times*.

"We are sure that lawyers who have licensing cases and magistrates who have to administer the new act will be very glad to hear that Mr. Oke has published a treatise on the subject."—*Law Journal*.

**Oke's Handy Book of the Game Laws ; containing the** whole Law as to Game Licences and Certificates, Gun Licences, Poaching Prevention, Trespass, Rabbits, Deer, Dogs, Birds, and Poisoned Grain, Sea Birds, Wild Birds and Wild Fowl, and the Rating of Game throughout the United Kingdom. Systematically arranged, with the Acts, Decisions, Notes and Forms. By J. W. WILLIS BUND, M.A., LL.B., Barrister-at-Law, Author of the "Law relating to Salmon Fisheries in England and Wales," &c. Post 8vo. 14s. cloth.

"A book on the Game Laws, brought up to the present time, and including the recent Acts with regard to Wild Fowl, &c. was much needed, and Mr. Willis Bund has most opportunely supplied the want by bringing out a revised and enlarged edition of the very useful Handy Book of which the late Mr. Oke was the author."—*The Field*.

**Oke's Handy Book of the Fishery Laws. Second Edition.** By J. W. WILLIS BUND, Esq., Barrister-at-Law, Author of "The Law of Salmon Fisheries in England and Wales," &c. 12mo.  
(In active preparation.)

**Oke's Law of Turnpike Roads ; comprising the whole** of the General Acts now in force, including those of 1831; the Acts as to Union of Trusts, for facilitating Arrangements with their Creditors, as to the interference by Railways with Roads, their non-repair, and enforcing contributions from Parishes, &c., practically arranged. With Cases, copious Notes, all the necessary Forms, and an elaborate Index, &c. By GEORGE C. OKE. Second Edition. 12mo. 18s. cloth.

## Law Works



AA 000 758 380

**Mr. Serjeant Stephen's Notes**  
*Edition, 1874.* By JAMES STEPHEN, Esq., LL.D., Judge of County Courts, &c. 4 vols. 8vo. 4l. 4s. cloth.

**Mozley & Whiteley's Concise Law Dictionary.** 8vo. 20s.

"Law students desirous of 'cramming' will find it acceptable."—*Law Times*.

**Trower's Prevalence of Equity under the Judicature Acts, 1873 and 1875.** 8vo. 5s. cloth.

**Chute's Equity in relation to Common Law.** 8vo. 9s. cl.

**Underhill's Law of Torts or Wrongs.** Post 8vo. 6s. cl.

**Seaborne's Manual of the Law of Vendors and Purchasers, and Supplement to 1874.** Post 8vo. 9s. cloth.

**Kelly's Conveyancing Draftsman.** Post 8vo. 6s. cloth.

**Goldsmith's Doctrine & Practice of Equity.** 6th ed. 18s.

**Roberts' Principles of Equity: a First Book on Equity Jurisprudence.** Third Edition. 8vo. 18s. cloth.

**Mosely's Articled Clerks' Handy-Book.** 12mo. 7s. cl.

**Bedford's Intermediate Examination Guide.** 14s. 6d.

**Bedford's Final Examination Guide to the Judicature Acts, 1873 and 1875.** Questions and Answers. 8vo. 7s. 6d. cloth.

**Bedford's Final Examination Guide to the Law of Probate and Divorce.** Questions and Answers. In 8vo. 4s. cloth.

**Bedford's Table of Principal Steps in an Action in the Supreme Court of Judicature.** *Third Edition.* On a Sheet, 1s.

**Bedford's Table of Leading Statutes for the Intermediate and Final Examination in Law, Equity and Conveyancing.** 1s. on a Sheet.

**Lewis's Principles of Equity Drafting.** Post 8vo. 12s.

**Lewis's Principles of Conveyancing.** 8vo. 18s. cloth.

**Barry's Practice of Conveyancing.** 8vo. 18s. cloth.

**Cutler & Griffin's Analysis of Indian Penal Code.** 8vo. 6s.

**Nasmith's Institutes of English Public Law.** 8vo. 12s.

**Nasmith's Institutes of English Private Law.** 2 vols. 21s.

**M. Ortolan's History of Roman Law, translated by I. T. PRICHARD and D. NASMITH, Barristers-at-Law.** 8vo. 28s. cloth.

**Fulton's Constitutional History.** Post 8vo. 7s. cloth.

**Shaw's Inn of Court Kalendar for 1877.** 8vo. 6s. cl.

**The Bar Examination Journal: containing the Examination Papers with Answers of each Bar Examination.** By A. D. TYSEN, and W. D. EDWARDS, Barristers. 3s. each number sewed; by post 3s. 1d.

**The Law Examination Journal and Law Student's Magazine.** Edited by HERBERT NEWMAN MOZLEY, Esq., Barrister at Law. Containing Leading Articles, Notes of Important Legal Decisions, Intermediate and Final Examination Questions and Answers, Reviews of Books, Correspondence, &c. Published after each Final Examination for Solicitors in Hil., East., Trin. & Mich. Terms. 8vo. in Numbers at 1s., post 1s. 1d.

**The Preliminary Examination Journal and Student's Literary Magazine.** By J. E. BENHAM. In 18 Nos., now complete in one vol., containing all the Questions and Answers from 1871 to 1875. 18s. cloth. The separate Nos. at 1s. each may also be had.

